

UNITED SUPERIOR COURT  
SOUTHERN DISTRICT OF NEW YORK

Case No. 1:18-cv-04438-AT-BCM

- - - - -X  
MORGAN ART FOUNDATION LIMITED, :  
Plaintiff :  
VS :  
MICHAEL MCKENZIE D/B/A AMERICAN :  
IMAGE ART, :  
Defendant :  
- - - - -X

Videotaped deposition of  
TIMOTHY GINEXI  
taken via videoconference before Clifford Edwards,  
Certified Shorthand Reporter and Notary Public, on  
November 9, 2021, at 9:30 a.m. EST.

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1 A P P E A R A N C E S: (all via videoconference)

2  
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20 STEPHEN KRUEGER, EXHIBIT TECHNICIAN  
21 MATTHEW CROUSE, VIDEOGRAPHER  
22  
23  
24  
25

1 TIMOTHY GINEXI  
2 THE VIDEOGRAPHER: We are now on  
3 the record. This begins videotape  
4 number one in the deposition of Tim  
5 Ginexi in the matter of Morgan Art  
6 Foundation vs. McKenzie. Today is  
7 Tuesday, November 9th, 2021. The time  
8 is 9:34 a.m.

9 This deposition is being taken  
10 virtually at the request of Quinn  
11 Emanuel Urquhart & Sullivan, LLP. The  
12 videographer is Matthew Crouse of Magna  
13 Legal Services and the court reporter is  
14 Cliff Edwards of Magna Legal Services.

15 Will counsel and all parties  
16 present state their appearances and whom  
17 they represent?

18 MR. RAKOWER: Ryan Rakower from  
19 Quinn Emanuel on behalf of Morgan Art  
20 Foundation.

21 MS. ZERNER: Bridget Zerner of  
22 Markham Read Zerner on behalf of Michael  
23 McKenzie doing business as American  
24 Image Art, and we also represent the  
25 witness today, Timothy Ginexi.

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22 Exhibit Technician.)  
23  
24  
25

1 TIMOTHY GINEXI  
2 THE VIDEOGRAPHER: Will the court  
3 reporter, please, swear in the witness?  
4

5 TIMOTHY GINEXI  
6 having first been duly sworn, deposed and testified  
7 as follows:  
8

9 DIRECT EXAMINATION

10  
11 BY MR. RAKOWER:

12 Q Good morning, Mr. Ginexi. My name is  
13 Ryan Rakower and I'm an attorney for Morgan Art  
14 Foundation, Limited.

15 I'm going to be asking you some  
16 questions today regarding your knowledge of facts  
17 or events underlying the claims and assertions by  
18 the parties to the lawsuit Morgan Art Foundation,  
19 Limited v. McKenzie; do you understand that?

20 A Yes.

21 Q Okay. If you don't understand any of my  
22 questions, please, let me know and I'll try to  
23 rephrase. Otherwise, I'm going to assume that you  
24 understand my questions; does that work for you?

25 A Yes.

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Q If you need a break, please, let me know. I would only ask that if there's a question pending, that you answer the pending question before we take the break; okay?

A Okay.

Q At times, Ms. Zerner may lodge objections to my questions. Unless directed otherwise by your attorney, please nevertheless answer my questions; do you understand that?

A Yes.

Q Okay. Please audibly answer my questions rather than giving a nonverbal gesture, like a nod, so that your answers can be picked up by the court reporter.

A Okay.

Q This deposition is being conducted remotely via video conference.

Is there any reason that would prevent you from testifying truthfully or accurately today?

A No.

Q Where are you taking the deposition from?

A From my house.

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Q Okay. Are you acquainted with him?

A Yes, I am.

Q Okay. Do you work with him?

A Yes, I do.

Q Are you officially employed in connection with that work?

A Yes.

Q Who is your employer?

A Michael McKenzie.

Q And what is your position?

A Silkscreen printer.

Q How long have you held that position?

A Since 2015.

Q Did you hold any position working for Mr. McKenzie before then?

A I worked with other printers that worked with Michael McKenzie.

Q How long have you been working for Mr. McKenzie?

A Since 2015.

Q Okay. And when you say that you worked -- before then, you worked with other printers that worked with Michael McKenzie, can you elaborate on that?

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Q Okay. And where is that?

A In Hopewell Junction.

Q Is that in New York?

A Yes.

Q Okay. Do you understand that you swore an oath today to tell the truth?

A I do.

Q Okay. Do you understand that's the same oath you would give to testify in court?

A Yes.

Q Okay. Is anyone else in the room with you while you're testifying today?

A No.

Q Are you currently taking or under the influence of any medications, alcohol, or other substance that would prevent you from answering my questions accurately and completely?

A No.

Q Is there any other reason why you cannot answer my questions accurately and completely?

A No.

Q Mr. Ginexi, are you familiar with a man named Michael McKenzie?

A Yes, I am.

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A I was a studio assistant in other studios that dealt with clients that he published.

Q When you talk about clients that he published, are you speaking about artists like Robert Indiana?

A Robert Indiana, yes, is one of them.

Q Okay. Were you a studio assistant for Mr. Indiana?

A No, I was not.

Q When did you first meet Mr. McKenzie?

A Probably 2007, 2008 maybe. Maybe a little earlier, but around that time period.

Q How did you come to meet him?

A I was working in an art studio as a printer's assistant and Michael was publishing artists at that shop.

Q What art studio were you working at, at the time?

A I was working with Gary Lichtenstein, who is a silkscreen printer.

Q You said that Michael was publishing artists at that shop.

Which artists' works was Mr. McKenzie publishing?

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A He was publishing Robert Indiana, Robert Cottingham, Alex Katz, and I believe that was it.

Q And how did you come to -- to work for Mr. McKenzie full-time?

A In 2015, he had reached out to me and asked me if I wanted to print for him.

Q And since 2015, you've held the same position for Mr. McKenzie as a silkscreen printer?

A Yes. Well, on and off. Yeah. During COVID he shut down a little. So I wasn't working with him during COVID, but I've been working with him now, yes.

Q For how long did Mr. McKenzie shut down his operations?

A It was a few months. It was really just during COVID.

Q Would you say this is from, you know, March of -- of 2020 until approximately when?

A Like, the springtime. I think it was, like, June.

Q And during that time, you weren't working for Mr. McKenzie in the studio?

A No. I was doing some work on and off with him but not, like, on a full-time basis

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that are attributed to Robert Indiana to this day for Mr. McKenzie; correct?

A HOPE pieces, yes.

Q Any other artworks attributed to Robert Indiana?

A No. He -- he's only doing HOPE.

Q When was the last time you observed Mr. McKenzie or somebody at his direction manufacture an artwork that's attributed to Robert Indiana that was not a HOPE artwork?

A I haven't seen any work manufactured that wasn't HOPE since Robert Indiana's passing.

Q When was that?

A Well -- that was in 2018. So --

Q So you mentioned that part of your responsibilities as a silkscreen printer is -- are to -- to print silkscreens but also to manufacture the art that Mr. McKenzie wants; is that right?

A Well, just silkscreens.

Q Just silkscreens?

A Yeah. Yeah. I don't do sculpture or anything like that.

Q Do you report to anybody in your -- in connection with your work as a silkscreen printer?

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anymore. It was part-time.

Q When did you go back to working on a full-time basis for Mr. McKenzie?

A I'm still part-time.

Q How often do you come into the studio?

A Probably three to four days a week.

Q And what are your responsibilities as a silkscreen printer?

A To print silkscreens and manufacture the art that he wants.

Q Does that include artworks created by or attributed to Robert Indiana?

A We've made works for Robert Indiana, yes.

Q Do you continue works that are attributed to Robert Indiana?

A We have been manufacturing under the contract that he has. He told us that he was finishing the contract or the works that were remained on the contract for Robert Indiana.

Q When you say "he," you're speaking about Mr. McKenzie?

A Yes. I apologize.

Q And you continue to manufacture artworks

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A Excuse me? Sorry. I didn't understand the question.

Q Do you report to anyone in connection with your work as a silkscreen printer?

A I report to Michael McKenzie.

Q Do you report to anybody else?

A No.

Q Does anyone report to you?

A No.

Q How many employees work with you?

A Just me, Annette, and Michael now.

Q And you say "now."

Was there a recent change in -- in the make up of the employees for Mr. McKenzie?

A Well, Michael's been downsizing ever since Robert Indiana died, and he -- the COVID also made him downsize and reduce hours and stuff of that nature.

Q So you've been working for McKenzie approximately six years; right?

A Yes.

Q Okay. Throughout those six years, what was the most -- what was the highest number of employees that you saw at a given time working for

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Mr. McKenzie?

A Probably seven or eight, I would say. Probably, like, eight employees at the most.

I -- it's hard because they -- like, people came in and out, so I don't remember exact numbers. But probably, like, eight employees at one point.

Q And how many different employees did you see working with you throughout the six years that you've been working for Mr. McKenzie?

A Probably about the same. I think it was -- that's what I was trying to count. I don't know -- remember how many overlapped and stuff of that nature, but there's a -- you know, a lot of young kids came in and out, stuff like that.

Q But -- but you can think of approximately eight different people who at one point were an employee of Mr. McKenzie while you've been there?

A Yeah. Well, roughly. You know, I'm just taking a guess at it.

Wait. Yeah, probably, like -- I could think of six --

Q You --

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A -- off the top of my head. But there was people coming in and out so --

Q Sure. Can you name the ones that you can think of off the top of your head?

A Clara, Annette, Hannah (phonetic), Katie (phonetic), Kate, Chris (phonetic). I think that's about it.

Q Okay. Do you -- do you know Clara's last name?

A Rodriguez.

Q Okay. Is Katie, Katie Churachillo (phonetic)?

A Yes.

Q Okay. Is Kate, Kate Casey?

A Yes.

Q And what's Chris' last name?

A Rubin (phonetic).

Q And I think we covered this but just so the record is clear: When you work for Mr. McKenzie, do you do your work in his art studio in Katonah, New York?

A Yes. All the work that was manufactured for Michael was in his facilities with his materials and --

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Q Do you ever work remotely for Mr. McKenzie?

A No.

Q How do you communicate with Mr. McKenzie?

A In person, mainly. By phone, but mainly in person. He's usually in the studio.

Q Do you ever e-mail with him?

A I have, yes.

Q And do you ever text message with him?

A Yes.

Q Do you use any instant messenger applications to communicate with him?

A No.

Q Have you ever been deposed before?

A Yes.

Q How many times?

A Well, this is my first one in the Morgan -- in the court case, but I don't know exactly. Not -- nothing related to work.

Q You don't know how many times you've been deposed?

A No, I don't.

Q When was the most recent time you were

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deposed?

A They were family court issues, so I don't know. It was a lot.

Q What do you mean by "it was a lot"?

A You know, I just -- I have a family -- family situation with my -- I have custody of my daughter and my ex is always going after me for custody of my daughter, so --

Q So that's a dispute that you were a party to?

A Yes. Yes. Yes.

Q Okay. So putting aside the family court dispute that you were a party to --

A No.

Q -- have you been deposed in another case?

A No. Never.

Q Did you prepare for today's deposition?

A I reviewed some of the materials previously. Not -- not recently, but I reviewed some of the stuff I sent in.

Q So you reviewed the -- the documents that -- that your counsel produced?

A Yes. Yes. That I sent in, yeah.

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Q Did you review any other documents to prepare for this deposition?

A I had read the subpoena. Not recently, but I have.

Q Did you review anything else?

A No.

Q Did you speak to counsel to prepare for this deposition?

A Yes.

Q Was that Ms. Zerner?

A Yes.

Q When did you speak to her to prepare for this deposition?

A I spoke to her on Monday.

Q Okay. For how long?

A Roughly 40 minutes.

Q Was -- was this by phone?

A Yes. It was by phone.

Q Did Ms. Zerner show you any documents?

A No, she did not.

Q Okay. Has Ms. Zerner sent you any outlines or memoranda to prepare for this deposition?

A No.

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A Yes.

Q Okay. And do you also see that the subpoena requires you to produce documents?

A Yes.

Q Okay.

MR. RAKOWER: Let's go to PDF page eight.

That's the right page.

BY MR. RAKOWER:

Q Do you see that on the screen it says, "Documents Requested"?

A Yes.

Q Okay. And you see that after that, there -- there's an enumerated list of categories of documents?

A Yes.

Q And you understand that these were categories of documents you were asked to produce in connection with this subpoena?

A Yes.

Q Okay. So let's look at category one. "Documents and communications relating to or concerning McKenzie or AIA's fabrication of Robert Indiana Works."

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Q You understand you are here pursuant to a subpoena?

A Yes.

Q And I think you mentioned you read the subpoena?

A Yes.

Q Okay.

MR. RAKOWER: Can we pull up Tab one?

BY MR. RAKOWER:

Q Okay. Mr. Ginexi, do you see a document on your screen?

A I do.

Q Is this the subpoena that you -- you reviewed?

A Yes.

MR. RAKOWER: Okay. I'd like to mark this as Exhibit 1.

(Whereupon, Exhibit No. 1, Subpoena, was marked for identification.)

BY MR. RAKOWER:

Q You see that the subpoena directs you to provide testimony on November 9th at a deposition?

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Do you see that?

A Yes.

Q Okay. Are you familiar with this topic?

A Am I familiar with Robert Indiana's works? Is that what you're asking me?

Q No. Are you familiar with -- with Mr. McKenzie's fabrication of Robert Indiana works?

A Just silkscreens.

Q You're not --

A I mean, the sculptures I'm not privy to. I don't actually have any idea of how many or when they're making them, if they're making them, color variations; any of that stuff, I'm -- I'm not in -- involved in.

Q Well, the sculptures that are fabricated, they're fabricated at the studio; right?

A No, they are not.

Q Where are they fabricated?

A I do not know the exact location of where they're fabricated.

Q Are they --

A He -- he has a fabricator that he goes



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2 to for that, not -- not me. I'm only silkscreen  
3 printing.

4 Q Are the sculptures that -- that he  
5 fabricates stored at the studio?

6 A He has some personal sculptures that he  
7 owns, I guess, that are his, is what he said to  
8 me; they're his.

9 But other than that, he does not store  
10 sculpture at his facility, other than the ones  
11 that are supposed to be his, I guess.

12 Q Okay. Do you have any e-mails  
13 concerning Mr. McKenzie's fabrication of Robert  
14 Indiana artworks?

15 A I do not.

16 Q What about text messages?

17 A No.

18 Q And how about hard copy documents?

19 A No.

20 Q What efforts did you undertake to  
21 confirm that you don't have e-mails, text  
22 messages, or hard copy documents concerning --

23 A I looked.

24 Q -- McKenzie's fabrication of Robert  
25 Indiana artworks?

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2 studio.

3 Q What search terms did you run across  
4 your e-mails?

5 A What search terms? Michael McKenzie,  
6 American Image, Robert Indiana.

7 So I wasn't in direct communication with  
8 Robert Indiana or Jamie either. All the  
9 communication for them went through Michael so --

10 Q Did your counsel provide you with a list  
11 of search terms to run across your e-mails?

12 A No, they did not.

13 Q So you came up with those search terms  
14 on your own?

15 A Yes.

16 Q Did you produce every e-mail that you  
17 have with Mr. McKenzie?

18 A To my best recollection, yes, I did.

19 Q All right. Topic number two is  
20 "Documents and communications concerning  
21 McKenzie's or AIA's storage of Robert Indiana  
22 works."

23 Do you see that?

24 A Yes.

25 Q And what do you know about

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2 A I went through my e-mails and my text  
3 messages trying to find any information regarding  
4 any works to me or -- and I didn't -- I didn't  
5 have any. Everything I produced, I produced to  
6 Bridget and I gave the stuff to -- a -- a flash  
7 drive to Dunning [sic] or Simoni or -- and yeah.  
8 So --

9 Q So let's take this piece by piece. You  
10 said you went through your e-mails?

11 A Yes.

12 Q Did you -- did you manually look through  
13 each one of your e-mails or did you run search  
14 terms?

15 A I ran search terms and tried to find  
16 anything related to works and stuff of that  
17 nature.

18 But I usually didn't get e-mails from  
19 Michael. He would come back from Maine and, you  
20 know, say, "Well, this project's a go, these color  
21 variations are a go. This is the sizes and this  
22 is what we're going to make."

23 And I would start -- manufacture it on,  
24 mainly -- most of the time, the verbal  
25 communications between Michael and I in the

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2 Mr. McKenzie's storage of Robert Indiana works?

3 A Well, Michael stored a lot of works in  
4 his studio and throughout numerous storage units,  
5 some of which he closed and brought the work back  
6 to his place and the one he has in Middletown now.

7 So he moved works around his property  
8 pretty frequently, up and down from the upstairs  
9 of his studio to the downstairs of the studio, to  
10 the red barn, back up to the studio.

11 Work would go in and out through shows.  
12 So there was a lot -- not just Robert Indiana, but  
13 a lot of the art that he owns being moved around  
14 his property and between storage units.

15 Q You said numerous storage units.

16 How -- how many storage units have you  
17 seen Mr. McKenzie use to store artwork -- store  
18 Robert Indiana artworks during your time working  
19 for him?

20 A Robert Indiana artworks, I'm not sure if  
21 he had -- well, he had a unit in the city, which  
22 he closed years ago. I don't recall if it had  
23 Robert Indiana works in it. And he just brought  
24 the stuff up in a truck and we unpacked it into  
25 the studio.

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The other unit he had was in Danbury and those works he brought back to the studio and the red barn basement.

And then he moved everything up to Middletown -- well, not everything, but most of his works -- his work, Robert Indiana's work, and other artists' work.

Q How long ago did he close his storage unit in New York City?

A I don't remember the exact date but it was -- it was a while ago. It was a long time ago. It -- at least two years.

Q Does he still have a storage unit in Danbury?

A No. He closed that, too.

Q And that's Danbury, Connecticut; right?

A Yeah. It was in Danbury.

Q When did he close his storage unit in Danbury, Connecticut?

A Probably around, like, the same time. Probably a couple years ago, a year and a half ago, two years ago, three years ago maybe. It was -- it was a while ago. It wasn't recently.

Q Was it before or after Mr. Indiana's

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death?

A I -- it was around that time. It could have been after.

Q And you mentioned that the artworks that he -- he brought back from his storage unit in Danbury after he closed it were brought to his studio and also, you said, the red barn basements?

A Yeah. He has a -- he was storing art in a basement and he was nervous about it, so he opened the unit in Middletown and said that's why he wanted to move all the work back out of there into a storage unit.

Q What is the red barn?

A It's his house.

Q And that's on the same property as the studio?

A Yes.

Q Okay. So he was storing art in the basement of his house?

A Pretty much, yeah.

Q Does he continue to store art in the basement of his house?

A He does have some art there, yes.

Q Are those art -- Robert Indiana work --

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artworks?

A Some of it may be, but I'm not sure exactly how much is where and -- anymore.

Q And you mentioned that he was nervous about storing artworks in his basement?

A Yeah. Because, you know, he had his water heater and all the, you know, stuff that a house needs water-wise. And water and art don't really mix very well. So he was nervous that if anything broke or he had an issue in the house, that his art would get ruined.

Q So Mr. McKenzie was -- was nervous about maintaining the condition of the art?

A Yeah.

Q And that was -- to your knowledge, that was the reason why he decided to -- to move the art --

A Yeah.

Q -- off of the property?

A Under my understanding, yes.

Q Okay. And he told that to you?

A Yes.

Q Okay. Do you have any e-mails concerning Mr. McKenzie's storage of Robert

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Indiana artworks?

A Not to my knowledge, unless I've handed them in to you, no. Not -- not to my knowledge.

Q What about text messages?

A No. I would have given you -- I gave you guys everything. I sent it all to Bridget, anything I could find in relation to it.

Q Do you have any hard copy documents or records concerning Mr. McKenzie's storage of Robert Indiana artworks?

A No. Not any -- not anything beyond what I've provided.

Q Let's talk about the next topic.

The next document request, number three, refers to "Documents and communications concerning McKenzie's or AIA's transportation of Robert Indiana artworks."

Do you see that?

A Yes.

Q What do you know about Mr. McKenzie transporting Robert Indiana artworks?

A The only thing I had was communications between what time we should be there. He ordered a box truck to -- for us to move it. And that was



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2 pretty much it. Other than that, the only reason  
3 I was given for moving the art was for the safety  
4 of the art.

5 Q When you moved the art, were artworks in  
6 the trunk of a vehicle?

7 A Yeah. He used cars to bring it up and  
8 the truck and his art -- his bus, you know, his  
9 van he has. So a lot of the stuff was just  
10 brought up in -- in runs, you know.

11 Q How many runs were there?

12 A At least three or -- to my knowledge.

13 Q Did you participate in all three of  
14 those runs?

15 A I participated in most of them, but I  
16 wasn't for all of them.

17 Q How many artworks, to your knowledge,  
18 were transported in those runs?

19 A Oh, jeez. I don't even -- I -- I  
20 couldn't even guess a number. It was a lot. He  
21 has multiple units up in Middletown, so it was a  
22 lot of work. Not all of which was Robert Indiana,  
23 but, you know, he did have a lot of Robert Indiana  
24 inventory.

25 Q Was most of the artworks that were put

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2 efforts or attempts to sell Robert Indiana works."

3 Do you see that?

4 A Yes.

5 Q Do you know anything about  
6 Mr. McKenzie's attempts to sell Robert Indiana  
7 artworks?

8 A No. He did an auction online and tried  
9 to include Indiana and Alex Katz and a bunch of  
10 his art in his collection. So there was an  
11 auction online.

12 Q What website was that auction held on?

13 A I believe it was Artsy.

14 Q When was this?

15 A I don't recall the exact dates, but -- I  
16 don't have any documents on it. I just know it  
17 happened, you know.

18 Q And how -- how do you know it happened?

19 A Mike was talk -- in the studio talking  
20 about putting the artwork in -- some of his  
21 artwork on Artsy to sell.

22 Q How much artwork?

23 A Not much. I didn't create the auction,  
24 so I don't know exactly how many pieces went up on  
25 it. I just know of it.

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2 in the -- in the trucks Robert Indiana artworks?

3 A I would say the majority of it was  
4 probably Robert Indiana, yeah. Because that's  
5 what he had a lot of in the -- the studio.

6 Q Request number four, it begins on this  
7 page and goes on the next page.

8 It discusses "Documents and  
9 communications concerning McKenzie's or AIA's sale  
10 of Robert Indiana artworks."

11 Do you see that?

12 A Yes.

13 Q What can you tell me about  
14 Mr. McKenzie's sale of Robert Indiana artworks?

15 A I don't know any of the sale information  
16 for Michael on any of his artworks published.  
17 That was always -- that was always handled by  
18 Michael with whatever galleries or people he was  
19 working with. And I was not prudent to that  
20 information.

21 Q Do you have any documents concerning  
22 sales of Robert Indiana artworks by Mr. McKenzie?

23 A No.

24 Q Category number five is "Documents and  
25 communications concerning McKenzie's or AIA's

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2 Q How much artwork was he looking to sell?

3 A I'm -- I don't know. It -- he's in the  
4 art selling business, so I'm sure he would like to  
5 sell a lot of his art. But I'm not sure how much  
6 he wanted to sell. That's a Mike question.

7 Q And this was some time in the last  
8 six years?

9 A Yeah. Yeah.

10 Q Do you recall whether it was in --  
11 within the past three years?

12 A It was within the past three --  
13 three years, yes.

14 Q Do you know which Robert Indiana  
15 artworks were included in that auction?

16 A I do not recall exactly which ones they  
17 were. I -- it was -- HOPE would be my guess. If  
18 I had to guess one it's probably HOPEs and  
19 sculptures, HOPE sculptures.

20 But again I don't have -- I didn't  
21 create the auction and I wasn't involved in the  
22 sales of anything, so I don't -- I don't recall  
23 exactly which pieces it was.

24 Q The next -- the next -- and sorry, I --  
25 I think you mentioned this but just so the record

1 TIMOTHY GINEXI

2 is clear: Do you have any documents relating to  
3 that auction?

4 A No, I do not.

5 Q Okay. And -- and do you -- do you  
6 recall any other instance discussing with  
7 Mr. McKenzie his efforts or attempts to sell  
8 Robert Indiana artworks?

9 A No. Again, if it was conversated in the  
10 studio and he was talking about the auction or,  
11 like, Rosenbaum in any way, then yeah. But again,  
12 I was never privy to any prices and contract  
13 agreements and anything like that, so I don't know  
14 what their -- the deals were with anybody or  
15 anything on sales. I didn't even know the prices  
16 of anything until recently.

17 Q When did you find out the prices?

18 A Just recently when -- just in the being  
19 privy to this court case and some of the  
20 information that was going around.

21 Q What do you mean by "being privy to this  
22 court case"?

23 A Well, just being subpoenaed, you know,  
24 sort of --

25 Q After -- after you were subpoenaed, you

1 TIMOTHY GINEXI

2 Do you see that?

3 A Yes.

4 Q Do you have any documents related to  
5 that topic?

6 A No, I do not. Not that I know of,  
7 unless I sent them to you already, but no.

8 Q So it's possible that some of the  
9 documents that you sent us concern Mr. McKenzie's  
10 efforts to -- or attempts to conceal Robert  
11 Indiana artworks?

12 A No, not to conceal his artworks. But I  
13 thought you were -- I -- I misunderstood the  
14 question. Sorry. I thought you were asking me on  
15 the sales. I apologize.

16 Q I'm looking at -- at request --

17 A Yeah.

18 Q -- number six.

19 A Yeah. I'm sorry.

20 Q Have -- have you ever had discussions  
21 with Mr. McKenzie regarding the concealment of  
22 Robert Indiana artworks?

23 A No, I did not.

24 Q Number seven is "Documents and  
25 communications concerning McKenzie's or AIA's

1 TIMOTHY GINEXI

2 had communications regarding the prices at which  
3 Mr. McKenzie was selling Robert Indiana artworks?

4 A No. No. No. I just saw auction  
5 history stuff like Sotheby's. So there was, like,  
6 some paperwork for Sotheby's auction histories  
7 that had to do with not Michael McKenzie's sales  
8 but other Robert Indiana works being sold.

9 Q Where did you see that paperwork?

10 A It was in the studio and online. I  
11 Googled it.

12 Q These were hard copy documents that were  
13 in the studio?

14 A Yeah. There was a -- a picture of a  
15 LOVE piece that was sold at auction.

16 Q Was that picture put in the studio by  
17 Mr. McKenzie?

18 A Yes. It was -- it was from  
19 Mr. McKenzie.

20 Q Did he talk to you about that picture?

21 A No. I just saw the -- the price on it.

22 Q Let's look at -- document request  
23 number six is "Documents and communications  
24 concerning McKenzie's or AIA's efforts or attempts  
25 to conceal Robert Indiana artworks."

1 TIMOTHY GINEXI

2 efforts or attempts to transfer Robert Indiana  
3 artworks."

4 Do you see that?

5 A Yes.

6 Q Have you ever had discussions with  
7 Mr. McKenzie regarding any attempts to transfer  
8 Robert Indiana artworks?

9 A By -- by transfer, you mean like bring  
10 to a storage unit?

11 Q What do you understand the word  
12 "transfer" to mean?

13 A Transfer, like transfer to another  
14 location, like, relocate. Or are you talking  
15 about transfer of ownership to another person?

16 Q Why don't we take each one.

17 So you mentioned that you have documents  
18 relating to the relocation of artworks to the  
19 storage unit; correct?

20 A Well, in the evidence I provided, I  
21 believe I gave, like, communications based on what  
22 time to be there and stuff of that nature.

23 Other than that, there's no information  
24 on the transfer of it. And again, I -- Mike  
25 wouldn't tell me if he was going to move his art

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to another person. I was not involved in sales or anything having to do with that so --

Q Mr. McKenzie --

A But --

Q -- has never spoken to you about this transfer of ownership of artwork from -- from him to another?

A No. No.

Q The next -- the next topic or document request is number eight, "Documents and communications concerning McKenzie's or AIA's affixation of Robert Indiana's signature or emblem on Robert Indiana works including through the use of a stencil or Ghostwriter."

Do you see that?

A I do.

Q Do you know what a Ghostwriter is?

A I know what a Ghostwriter is, yes.

Q What is it?

A It's a machine, you pay for the chip or whatever it is you put -- the flash drive to put in it to sign things with.

Q The machine applies a signature?

A Yeah. It's like an autograph writer or

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want to sign them because he was -- there was too many of them. So he gave Michael the permission to use it.

But I've never seen the machine used in the studio because when we were manufacturing the projects, they were brought up to Indiana and signed. So it was -- and he was coming back with them and leaving some there. And so I never saw the Ghostwriter used. It was prior to my time being employed by Michael.

Q You said that you were told that the Ghostwriter was used for a very large project; is that right?

A Yeah. It was, like, high volume of paper, more than Indiana wanted to sign in one sitting or multiple sittings so he, according to what I was told, was given the permission to use that Ghostwriter -- Michael was given the permission to use the Ghostwriter to do that project or whatever projects it was.

Q Who told you that?

A Michael and Annette.

Q Did you have an understanding of what that project was?

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something.

Q Have you seen a Ghostwriter in Mr. McKenzie's studio?

A Yes, I have.

Q Have you seen it being used?

A No, I haven't.

Q Have you ever spoken to McKenzie -- Mr. McKenzie about its use?

A "Osvald" Gonzalez tried to get Michael McKenzie to use the Ghostwriter on Robert Indiana pieces that were unsigned, and I witnessed Rob -- Michael McKenzie saying no to him.

Other than that, there was never a discussion of using the device because Robert Indiana was signing all the works when I was employed there.

Q And why -- if Mr. Indiana was signing the works, why would that preclude the use of the Ghostwriter?

A Why would it preclude?

Again, the Ghostwriter was a product -- was before my time, and what I've been told about it was, it was for a project that they had done prior to me that was very large and Indiana didn't

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A Do I have an understanding of what the project was? I believe it was the Four Seasons of Hope.

Q You were told that -- that Mr. Indiana had -- had given Mr. McKenzie permission to sign his name with a Ghostwriter machine on artworks bearing the image Four Seasons of Hope?

A It was -- yes, it was a Four Seasons of Hope. That's what I was told.

Q Were you told that the Ghostwriter was used for any other artworks?

A He said that he did it on another edition. I don't recall what the edition was.

Q This was Mr. McKenzie?

A Yeah.

Q And did Mr. McKenzie tell you that Mr. Indiana had authorized him to use that Ghostwriter on -- on the other edition that you're referring to?

A Well, he -- he insinuated that he had the authority to use the Ghostwriter on the projects that he was working on -- or the project that he was working on.

See, I don't know if he did it on more

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than one or not, but I think -- you know, if he had more than one project that it was large in volume, I'm sure Indiana gave him the authority to do it. Well, I'm not sure but, you know.

Q Why wouldn't you be sure?

A Well, I'm just saying, like, I didn't hear Indiana say it, so I can't say I'm a hundred percent positive. But I believe it to be true.

I've seen Indiana in person and, you know, have brought him work and watched him sign work. Never heard him complain about anything or -- him or Jamie, you know. They were both there when I -- when I met Indiana in Maine.

Q And you mentioned that the Ghostwriter was before your time.

Do you have an understanding of when it was used to sign works?

A I do not, no.

Q But it was before you started in 2015?

A Yes, it was before 2015.

Q But the Ghostwriter remained in the studio while you were working for Mr. McKenzie?

A Yeah. I guess he owned the machine and, you know, it was in the studio and it was never

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Q And you mentioned that Mr. McKenzie told you that Mr. Indiana authorized the use of a stencil?

A Yes.

Q You never heard from Mr. Indiana himself that he was okay with the use of a stencil?

A Well, Michael was bringing him canvases and, you know, Robert Indiana was accepting the canvases and keeping them. So I never assumed that Robert Indiana had any disagreement with it because I've seen him taking them.

Q I appreciate that. I don't think it totally answers the question I asked, so I'm just going to ask it one more time and if you are confused I can rephrase it.

But I'm just asking: Did you ever hear from Mr. Indiana himself that he was okay with the use of a stencil?

A I did not hear that, no.

Q The stencil that -- have you ever applied a stencil with -- with Mr. Indiana's signature or seal on it?

A Yes, I have.

Q How many times?

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used. But it was in the upstairs of his studio.

Q Is it still there?

A I believe it to be, yeah.

Q And this -- this document request also refers to the -- the use of a stencil.

Do you have an understanding of what that refers to?

A Yes.

Q Okay. What is that?

A Robert Indiana, according -- from Mike, Robert Indiana said that he never signs his canvases, so he had a seal that he sprayed on the canvases.

And that Michael should be doing that instead of having Robert Indiana sign them, because it wouldn't match the other work that Robert Indiana was doing.

Q So this was used to -- to affix Mr. Indiana's signature emblem on canvases?

A Yes.

Q Were there other types of artwork that a stencil was used to affix Mr. Indiana's signature or emblem?

A No. It -- it was mainly the canvases.

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MS. ZERNER: Objection.

If we could just clarify the question because you asked about a signature or a seal. If you could distinguish those for the follow-up.

BY MR. RAKOWER:

Q Mr. Ginexi, were you confused by my question?

A Yes. Please rephrase it. Sorry.

Q Have you ever applied a stencil with Mr. Indiana's signature on it?

A There is no signature in the stencil.

Q Okay. Have you ever applied a stencil with Mr. Indiana's seal on it?

A Yes.

Q Approximately how many times?

A I don't know. A lot.

Prior to -- well, in 2015 on, most of the canvases that were made were stamped with that seal or stencil with the seal on the back.

So some of them I did, some of them other employees did. So I -- I don't even have a rough number to give you on that.

Q So you mentioned back in 2015. That's



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2 when you started working for Mr. McKenzie; right?

3 A Yes.

4 Q And when you started working for  
5 Mr. McKenzie in 2015, you were using a stencil to  
6 affix Mr. Indiana's seal on canvas artworks;  
7 correct?

8 A Yes.

9 Q Did you ever stop using a stencil to  
10 affix Mr. Indiana's seal on canvas artworks?

11 A Did I, personally?

12 Q Yes.

13 A Yes.

14 Q When did you stop?

15 A Fairly recently, because it takes a lot  
16 of time and I'm, you know, making the prints by  
17 myself. So it was -- Annette started doing it.

18 Q You say, "fairly recently."

19 Is that this year?

20 A It was in the last few years, yeah.

21 Q Let's get a little more specific. Was  
22 it before or after Mr. Indiana died?

23 A It was after Indiana died.

24 Q Okay. Approximately how long after?

25 A Probably a year and a half, two years

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2 I -- I -- Mike had someone else doing it.

3 Q And when you were responsible for  
4 stenciling Mr. Indiana's seal on canvas artworks,  
5 you were doing so at Mr. McKenzie's direction;  
6 correct?

7 A Yes.

8 Q Okay. And you mentioned that  
9 Mr. McKenzie transitioned the responsibility for  
10 stenciling Mr. Indiana's seal on canvas artworks  
11 to somebody else; right?

12 A Yes.

13 Q And I think you mentioned that person  
14 was Annette Vessecchia?

15 A Yes.

16 Q Okay. And approximately when did that  
17 transition take place?

18 A When he started downsizing and, you  
19 know, making it so that it was, you know, a  
20 smaller workforce. So probably around COVID and,  
21 you know, prior to -- right -- right around  
22 Indiana's death. Because when Indiana died, he  
23 started downsizing his studio and it was right  
24 around then.

25 Q So it was right around the time of

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2 after.

3 Q So for a year and a half or two years  
4 after Mr. Indiana died, you continued to affix his  
5 seal on canvas artworks using a stencil?

6 A That is incorrect. Yeah. I didn't -- I  
7 was still making the art, but I wasn't putting the  
8 seal on because I was by myself making the art  
9 so --

10 Q Well, when's the last time you used a  
11 stencil to affix Mr. Indiana's seal on canvas  
12 artworks?

13 A I don't recall the exact time and date.

14 Q Was it before or after Mr. Indiana died?

15 A Probably before Indiana died.

16 Q And why did you stop applying a stencil  
17 to Robert Indiana artworks?

18 A Why did I personally stop?

19 Q Yes.

20 A Because I was manufacturing prints and  
21 the manufacturing of the prints was a lot of work  
22 and usually I would have help doing it. But since  
23 Mike was downsizing his business, I was alone and  
24 there was too much -- working part-time, it was  
25 too much time to be doing that with printing. So

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2 Mr. Indiana's death?

3 A I would say around then or around COVID.  
4 The works weren't being stamped for a  
5 while. I was manufacturing them and they were  
6 being piled up. And he started out, you know,  
7 telling Annette to manufacture them.

8 Q Okay.

9 A I mean stamp them.

10 Q So I want to -- I want to sort of get  
11 the -- I -- I'm not trying to make this a pop  
12 quiz; I'm just trying to make the timeline clearer  
13 on the record.

14 A Yeah.

15 Q So at one point you -- you were  
16 responsible for stenciling the artworks; correct?

17 A Yes.

18 Q Okay. Then at some point, you stopped  
19 stenciling the artworks; correct?

20 A Yes.

21 Q At that point artworks started, you  
22 know, as you put it, piling up?

23 A Yes.

24 Q Okay. How long -- for how long -- and  
25 then at some point Mr. McKenzie tasked



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Ms. Vessecchia to begin stamping the artworks again; correct?

A That is correct.

Q Okay. For how long was nobody stamping the artworks?

A Oh, I don't know. I don't know.

A year or two, at least.

Q And so I have the timeline clear, you don't believe that you personally stamped any artworks after Mr. Indiana's death?

A That is -- there's a good possibility that is correct. I'm not sure exactly though.

It wasn't because -- we weren't led to believe that what Michael was doing was wrong. He had a contract that he was saying he had the rights to produce and he said that the courts allowed him the ability to keep manufacturing. So everything was under the direction of Michael and he asserted that he was allowed to do it. So

we -- you know, I continued to manufacture them --

Q All right.

A -- for him.

Q Thank you for that. I'm just -- I just -- but I do need a clear answer to my

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wasn't, like -- it wasn't, like, I don't believe anything -- nothing was done so --

Q So let's -- let's do this for the --

A I'm just not there all the time. So it's like, I'm trying to be as honest and clear as possible, but I'm also trying to answer times that I -- I -- I'm not there, you know. It's a little tricky.

Q So let's -- let's do it this way: For the sake of the record and just so my answers are clear, when I refer to the one- or two-year period where you mentioned that artworks were piling up, okay --

A Yeah.

Q -- let's call that "the hiatus."

Does that work for you?

A Yeah.

Q Okay. So the hiatus began some time around when Mr. Indiana died; correct?

A Well, you know, even prior to Indiana dying, Michael was manufacturing work for Indiana. So there was stuff that was, like, already in progress prior to his death. So some of those -- some of that work I'm talking about in your hiatus

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question.

So -- so yes or no: Do you believe that you personally stamped an Indiana artwork after Mr. Indiana died?

A No.

MS. ZERNER: Asked and answered.

Go ahead, Tim.

A No.

BY MR. RAKOWER:

Q Okay. And you said that after you stopped stamping Indiana artworks, they piled up for a year or two at least; correct?

A Yeah.

Q Okay. And then after a year or two, Ms. Vessecchia began stamping the artworks at Mr. McKenzie's direction; correct?

A Yes.

And the -- let me clarify that there -- there may have been some stamped in between a year or two, but not like -- you know, not like you -- you finished off a -- a -- a set of them or something, you know?

So there was -- there was works that were, you know, stacking up. And again, there

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is previous to his death. So that -- that's -- that's why I'm clarifying the answer that way.

Q Sure. But I'm not talking about when the artworks were manufactured; okay? I'm talking about when artworks were stamped?

A Okay.

Q And you mentioned that you personally stopped stamping artworks, to the best of your belief, before Mr. Indiana died; correct?

A Yes.

Q Okay. And then there was a one- to two-year hiatus on stamping; correct?

A Just about, yeah. I -- it might be a little longer or shorter. I'm not -- yes.

Q And the hiatus ended when Mr. McKenzie tasked Ms. Vessecchia with stamping what you had referred to as "a pile of artworks"; correct?

A Yes.

Q Okay. And that occurred some time around when COVID began?

A Prior -- maybe prior to. Right around -- right around that time though, yes. It was probably prior to COVID.

Q But it would be some time in late 2019

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2 or early 2020; is that right?

3 A Yeah. Probably be in '19.

4 Q Did Mr. McKenzie ask you to begin  
5 stamping again?

6 A No. McKenzie wanted me to keep making  
7 art so --

8 Q And were you -- did you witness  
9 Ms. Vessecchia applying the stamps after the  
10 hiatus?

11 A Yes.

12 Q Okay. And the stencil that  
13 Ms. Vessecchia applied, did -- did those stencils  
14 have dates on them?

15 A Yes, they did.

16 Q Okay. And did you see Ms. Vessecchia  
17 ever apply a stencil with a 2019 date on it?

18 A I do not recall a 2019 date.

19 Q And you don't recall ever seeing  
20 Ms. Vessecchia applying a stencil with a 2020 date  
21 on it, do you?

22 A No.

23 Q And you don't recall Ms. Vessecchia ever  
24 applying a stencil with a 2021 date on it, do you?

25 A No. But I wasn't also focusing on what

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2 Q Okay. If we could pull back up the --  
3 the subpoena.

4 You see category number ten is  
5 "Documents and communications concerning  
6 McKenzie's or AIA's efforts or attempts to  
7 establish trusts to hold Robert Indiana works."

8 Do you see that?

9 A Yes, I do.

10 Q Okay. Do you know anything about that?

11 A No, I do not.

12 Q Do you have any documents related to  
13 that?

14 A No.

15 Q Okay. Next category, number 11, is  
16 "Documents and communications concerning any of  
17 the issues and alleged facts in the complaint."

18 Do you see that?

19 A Yes.

20 Q Okay.

21 MR. RAKOWER: Can we flip to  
22 page 16 of the PDF?

23 BY MR. RAKOWER:

24 Q Mr. Ginexi, have you seen this document  
25 before?

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2 they were -- you know, the dates and the stamps  
3 themselves. I was doing my own thing, so --

4 Q But you did see -- but you did see a  
5 date; right?

6 A Yeah, I did -- I didn't see those dates,  
7 yeah. I wasn't, like, focusing on what they were  
8 doing, you know. I'm not that --

9 Q Did you -- did you ever see a date on a  
10 stencil being applied that was earlier than the  
11 date the stencil was being applied?

12 A Yeah.

13 Q Okay. And did you see that in the past  
14 two years?

15 A Yes.

16 Q Those were stencils being applied by  
17 Ms. Vessecchia; correct?

18 A Yes.

19 Q And those were stencils bearing  
20 Mr. Indiana's seal; correct?

21 A Yes.

22 Q Okay. Do you have any documents  
23 relating to the application of a stencil on Robert  
24 Indiana artworks?

25 A No, I do not.

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2 A Yes.

3 Q Okay. This was attached to the subpoena  
4 that was sent to you?

5 A Yes.

6 Q Okay. And you see that this is Morgan  
7 Art Foundation's First Amended Complaint in this  
8 lawsuit?

9 A Yes.

10 Q Did you read this?

11 A I did not read this whole thing, no.

12 Q Did you read some of it?

13 A I -- I breezed through it. It was  
14 pretty lengthy.

15 Q When did you breeze through it?

16 A When it was attach -- when I was  
17 subpoenaed.

18 Q Do you have any documents concerning  
19 the -- the facts that were alleged in the  
20 complaint?

21 A Unless I provided them to Bridget, no, I  
22 do not.

23 Q Okay.

24 MR. RAKOWER: Let's go back to --  
25 to PDF page nine.

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BY MR. RAKOWER:

Q Okay. Category number 12 is "Documents related to the events, facts, artworks, or circumstances described in the attached declaration of Osvaldo Gonzalez."

Do you see that?

A Yes.

Q Okay. Do you know who Osvaldo Gonzalez is?

A Yes.

Q Who is he?

A He was employed by Michael McKenzie to do legal advisement throughout this trial.

Q Have you ever witnessed him providing legal advisement?

A Yes.

Q Were you party to those conversations?

A No. But I was, you know, in the -- his space is small so you're walking through, you hear them talking. But you're not -- I'm not part -- prudent into the conversation because I'm not a lawyer.

Q And -- and you mentioned that he provided legal advisement related to -- to this

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Q And what do you mean by that?

A Well, Michael told me he's a disbarred attorney and he wasn't even supposed to be practicing law. And so, you know, I mean, he's obviously a conman. So I don't know what to believe.

MR. RAKOWER: Okay. If we go to -- if we flip over one page in the PDF.

BY MR. RAKOWER:

Q Do you see this is a declaration for Mr. Gonzalez?

A Yes, I do.

Q Did you see that this was attached to the subpoena that was sent to you?

A I did.

Q Did you read it?

A A while ago, yeah.

Q Okay. Do you have any documents that concern the facts or issues described in the declaration?

A I provided everything to Bridget that I had. I do not recall exactly what I provided to her, but if there is any, it would be in that.

Q Okay. We'll get back to this.

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matter?

A I -- I would hear him giving legal advice to Michael, mainly about the negotiations and settlements and stuff like that.

Q And what did he say?

A Well, he was talking about an instance where he went up to Maine and was involved in a mediation, what he would advise Michael to do in the case -- in regards to settlement negotiations and -- I don't remember the facts, but I just remember him, you know, communicating about legal stuff to him. You know?

I -- again, I wasn't involved in the conversation so I -- I don't have the full context and everything.

Q Was Mr. Gonzalez in favor of settlement or against settlement?

A I don't really know. Again, I wasn't involved in the whole conversation. It -- it sounded like he was trying to do something that would be good for all the parties. But I don't -- you know, I -- you know, after the subpoena and everything, I don't know what the hell to think about the guy.

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MR. RAKOWER: We can take this down.

Now may be a good time to take a break. I don't know if that -- that works for you, Mr. Ginexi, or you, Bridget?

MS. ZERNER: Fine with me. Ten minutes? Is that what you need or --

MR. RAKOWER: Yeah, why don't we -- why don't we break until 11 a.m. So let's do 14 minutes, if that's okay.

MS. ZERNER: Okay. We'll be back on the line at 11.

So Tim, if you want to just hit mute and stop your video, then you can take a break until 11.

THE VIDEOGRAPHER: Off the record 10:46 a.m.

(Whereupon, there was a recess taken from 10:46 a.m. to 11:02 a.m.)

THE VIDEOGRAPHER: On the record, 11:02 a.m.

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BY MR. RAKOWER:

Q Okay. Mr. -- Mr. Ginexi, you mentioned that you met Robert Indiana in person while he was still alive; is that correct?

A That is correct.

Q How many times?

A Three or four.

Q When was the first time you met him?

A It was probably a -- around 2009.

Q And where did you meet him?

A At Michael's property in Katonah.

Q And you weren't working for Mr. McKenzie at that time; right?

A No, I was not.

Q What brought you to Mr. McKenzie's property that day?

A The printer I was working with -- for was involved in the Four Seasons of Hope event at the restaurant the Four Seasons in Manhattan where they were unveiling the large scale Robert Indiana HOPE prints. Robert Indiana came down for the event.

Q Who was the printer you were working for at that time?

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Q Did you discuss the affixation of a seal using a stencil on artworks?

A No.

Q Did you discuss the use of a Ghostwriter?

A No.

Q Okay. When was the next time you met Mr. Indiana?

A After that, he -- after Michael's property, I saw him at the restaurant in the Four Seasons, and after that event, I hadn't seen him again until after 2015 when I went up to Maine.

Q Let's talk about when you saw him at the restaurant, at the Four Seasons.

How long was that conversation?

A I just said hi. And -- there was a lot of people going around him and asking him about the artwork and stuff of that nature because that was all around the Obama stuff that he was doing.

Q What do you -- what do you recall him saying about his artworks during that interaction?

A I wasn't standing right next to him, so I -- I was in the same restaurant but I wasn't listening to his conversations.

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A Gary Lichtenstein.

Q How long did you speak to Mr. -- to Mr. Indiana for?

A Brief conversations, you know, introductions and stuff of that nature.

Q Who else was present for that conversation?

A Michael, maybe. I don't -- it was a long time ago. I don't remember who was standing there. It was, like, really just, like, "Hi, how you doing," type stuff. You know, not anything -- you know, I don't even really remember the conversation, to tell you the truth.

Q Do you recall whether you discussed artworks with Mr. Indiana during that conversation?

A No, I didn't discuss any artwork with him.

Q Did you discuss his authorization of artworks?

A No, I didn't.

Q Did you discuss the application of his signature on artworks?

A No, I didn't.

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Q Do you recall him saying anything about the authorization of his artworks?

A No.

Q Do you recall him saying anything about the application of his signature on artworks?

A No.

Q Do you recall him saying anything about the affixation of his seal on artworks?

A No.

Q Do you recall him saying anything about the use of a Ghostwriter to sign his signature on an artwork?

A No.

Q Okay. Do you recall him saying anything about Morgan Art Foundation?

A No.

Q Do you recall him saying anything about Simon Salama-Caro?

A No.

Q Do you recall him saying anything about anybody in the Salama-Caro family?

A No.

Q And does the same go for the earlier conversation you had with him at Mr. McKenzie's

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property?

A Yeah, same goes for the property, yeah.

Q You don't recall him saying anything about Morgan Art Foundation or any of the Salama-Caros during that conversation?

A No. Again, I wasn't involved in any of the contractual stuff, so I wouldn't be privy to any of that.

Q And the next time that you saw Mr. Indiana after seeing him in 2009 at Mr. McKenzie's property and then at the restaurant, at the Four Seasons, the next time you saw him, you mentioned, was it -- was after 2015 when you went up to Maine?

A It was -- yeah, when I went up to Maine, it was after 2015. And in 2009, I might be wrong on that. That might have been the Democratic Convention. I wasn't there, but I think that was the -- in the election. So it was after the election. So it might have been 2010 on Mike's property or 2011, something around there. It was early 2000s. I don't remember exactly.

Q The next time that you saw Mr. Indiana after seeing him on the property and after seeing

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him at the Four Seasons, was in Maine right?

A It was in Maine, yes.

Q Okay. And that was some time after 2015?

A Yes, it would have been after 2015.

Q Do you know what year it was?

A I do not recall -- I want to say -- I want to say it was in 2017, but it may have been 2015. It may have been the first year I was with Mike.

I went up twice. One time Indiana never ended up coming, and then the second time -- the first time, Indiana and Jamie were there.

Q Okay. So while you were working for Mr. McKenzie from 2015 to the present, you only saw Mr. Indiana once?

A Yes. Yes.

Q Okay. You --

A But I never went into his space, his house either.

Q Where did you see Mr. Indiana?

A It was at Michael McKenzie's property in Maine.

Q That was some time between 2015 and when

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Mr. Indiana died?

A Yeah.

Q Okay. What was Mr. Indiana doing at Mr. McKenzie's property?

A Signing artwork.

Q And where in Maine was Mr. McKenzie's property?

A It was right up the street from Robert Indiana.

Q It was in Vinalhaven?

A He was in Vinalhaven, yeah.

Q And what were you doing at Mr. McKenzie's property that day?

A I helped Michael bring the art up to have signed, an artwork that was going to Robert Indiana, and I was supposed to be helping another gentleman print up there.

Q What was the name of that gentleman?

A Chris Clark (phonetic).

Q How much artwork did you bring with you to Mr. McKenzie's property in Maine?

A A lot. I -- I don't remember exact -- I don't recall exactly how much, but we brought a lot of work up.

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Indiana was there for a while signing.

Q Would you say this was over a hundred artworks?

A I don't have an exact number. I don't -- I don't have an exact number, I'm sorry.

Q How did you transport --

A It was -- it was a decent amount of work, though.

Q How did you transport the artworks?

A With Michael's truck.

Q Is that a pickup truck?

A No. He had an SUV at the time.

Q Did you fill up the entire trunk of that vehicle with artworks?

A Yeah. Pretty close, yeah. Actually, yeah.

Q What kind of artworks?

A Paper, prints, canvases, stuff of that nature.

Q Were all of these artworks unsigned?

A Well, the canvases were stamped and were be -- were given -- were being given to Indiana, and the paper pieces were to be signed.

Q What images appeared on those artworks?



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A I -- I don't recall every edition, but one I remember is SHE and HE, the calendar -- HOPE calendar pieces. I -- I don't remember all of them. There was just -- I don't remember them all, I'm sorry.

Q If I go through a list of images, would you be able to tell me yes or no, to the best of your knowledge, whether those artworks were included in -- in the shipment that you made to Maine?

A The shipment Michael wanted to bring up to Maine, yeah. I could try to the best of my knowledge, yes.

Q Did the HOPE image appear on those artworks?

A Yes.

Q Did the LOVE image appear on any of those artworks?

A I think he may have signed the retrospective, which had a bunch of images on it.

Q That includes LOVE?

A I believe it does, if I remember correctly.

Q Were any of the Dylan artworks included?

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Q When was the trip where you brought the Dylan works up to Maine?

A I don't recall the exact date. It must have been in at least '16 or '17 -- in 2016 or 2017.

Q And was the purpose of bringing those artworks to Maine for have Mr. Indiana sign them?

A Yes.

Q And Mr. Indiana didn't end up appearing to sign them?

A Not while I was there. We left the artwork up there.

Q Okay.

A Whatever artwork needed to be signed, we would leave up there if he didn't, you know, come back. Because Mike would go up more frequently than I did. I only went up a few times, a couple times to see it, to -- to help him bring the artwork up. But Mike would go up and, you know, try to meet with him more often than I would go.

Q And when you said you would leave the artwork, you -- who would you leave it with?

A We would leave it at Michael's space.

I -- I -- I assumed that they could get in -- he

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A No. That was a later trip, I believe.

Q What about the EAT image?

A Potentially, yes.

Q What about the A-R-T image?

A The ART? I don't recall.

Q What about TIKVA?

A TIKVA? No, TIKVA wasn't on that trip.

Q What about AHAVA?

A No.

Q What about Alphabet?

A I believe the Alphabet project was done prior to me. I'm not sure if it -- no, I -- I don't know. I don't know if Alphabet was there, to tell you the truth.

Q You mentioned the Dylan artworks were brought on a later trip. What are you referring to?

A I believe that was the trip we brought those up and Robert Indiana didn't end up coming over.

Q And when was that?

A Even -- even on the trip that I did see Indiana, Indiana I think left us sitting there for a day or two before he even came over.

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made, like, handicapped ramps down the side of the building for Robert Indiana. So the place was really designed pretty much for Robert Indiana.

So I -- I assumed that if they were going to take the work out, they would -- you know, it would be Robert Indiana's people taking the work.

Q And the -- the time that you met with Mr. Indiana in Maine where he did show up --

A Uh-huh.

Q -- how long did you speak to him for?

A I wasn't really -- you know, I -- I spoke to him, like, in small-talk conversations, but I didn't speak to him for extended periods of time.

Jamie and Mike were talking to him; I was working with Chris and printing in the same room while he was there.

Q Could you overhear what Mr. Indiana was saying?

A I couldn't, no.

Q Do you -- do you recall during that visit Mr. Indiana saying anything about his artworks?

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A We presented pieces to him and he was talking about color variations and stuff of that nature.

Q Did he sign each piece that you presented to him that he was asked to sign?

A Yes.

Q Okay. Did Mr. Indiana ever discuss -- did you overhear him discussing anything about his authorization of artworks?

A No. And he wouldn't have discussed that with me. You know, it was always small talk with Robert Indiana.

Q And during that visit, did you ever overhear Mr. Indiana saying anything about the affixation of his signature on art works?

A No.

Q And during that visit, did you ever -- ever overhear Mr. Indiana saying anything about the use of a Ghostwriter to sign his signature on artworks?

A No.

Q Did you, during that visit, ever overhear Mr. Indiana saying anything about the use of a stencil to affix his seal on artworks?

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A No, I didn't.

Q And you never overheard Mr. Indiana say anything about the application of his signature to artworks; correct?

A That is correct.

Q And you never heard Mr. Indiana say anything about the use of a stencil to stamp his seal on artworks; correct?

A Correct.

Q Okay. Let's switch gears.

I want to talk about your work with Mr. McKenzie.

You've been working with Mr. McKenzie since 2015; correct?

A Correct.

Q During that time, did you ever hear or see -- strike that.

During that time, did you ever see or hear about Mr. McKenzie or anyone working with him printing LOVE canvases?

A No.

MR. RAKOWER: Let's pull up Tab 11.

BY MR. RAKOWER:

Q Mr. Ginexi, do you see a document on

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A No.

Q During that visit, did you overhear Mr. Indiana saying anything about Morgan Art Foundation?

A No.

Q During that visit, did you overhear Mr. Indiana saying anything about anyone in the Salama-Caro family?

A No.

Q And have we now covered each time that you met Robert Indiana?

A To the best of my recollection, yeah.

Q Have you ever spoken to Mr. Indiana by phone?

A No. No.

Q I apologize, but I have to ask these questions so that the record is clear.

Did you ever e-mail with Mr. Indiana?

A No.

Q Did you ever text with Robert Indiana?

A No.

Q Okay. So you've never overheard Mr. Indiana say anything about the authorizations of his artworks; correct?

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your screen?

A Yes, I do.

Q Okay. I'm going to represent to you that -- that this document was pulled from the production of documents you made in response to --

A Okay.

Q -- our subpoena.

Mr. Ginexi, do you recognize these as your own text messages?

A Yes.

Q Okay. And are these text messages with Michael McKenzie?

A Yes.

Q Okay. And do you see that Mr. McKenzie says to you on January 28, 2020, "I don't know if you left door open but don't. I come back and Oz is printing LOVE canvases over and over. Last thing I next is that in a lawsuit me defending why I am printing LOVE which I don't even want to go near. This is so dirty and the explanation such bullshit."

Do you see that?

A I do.

Q Okay. "Oz" is referring to Oz Gonzalez?

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A Yes.

Q Okay. And at the time, Mr. Gonzalez worked for Mr. McKenzie; correct?

A Yes.

Q Okay. And Mr. McKenzie told you that Mr. Gonzalez was printing LOVE canvases; correct?

A Yes. In this text message. That is correct.

Q And that was occurring at Mr. McKenzie's studio; correct?

A That was under my assumption, yes.

Q Okay. And Mr. McKenzie says that he doesn't want to go near LOVE; do you see that?

A Yeah.

Q Why didn't Mr. McKenzie want to go near LOVE?

MS. ZERNER: Objection.

You can -- you can answer, Tim, if you know.

A I -- I don't know why, but obviously he's in a lawsuit with Morgan, you know, and that would just bring more, you know, problems with his lawsuit. Why would he -- you know, he doesn't -- he doesn't manufacture LOVE.

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got from that.

BY MR. RAKOWER:

Q Did Mr. McKenzie ever talk to you about the production of LOVE artworks?

A No. We didn't produce LOVE.

Michael had HOPE and he was printing HOPE.

Q Did Mr. McKenzie ever instruct you not to produce LOVE?

A No. I never asked. I only went under the direction of what Michael wanted me to produce, not what I wanted. I -- I had no say in anything.

MR. RAKOWER: We can -- let's mark this document as Exhibit 2.

(Whereupon, Exhibit No. 2, Text Message from Michael McKenzie to Tim Ginexi, was marked for identification.)

MR. RAKOWER: And we can -- we can put this document to the side.

BY MR. RAKOWER:

Q Okay. So I think we spoke a little bit earlier about you collecting documents in response

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BY MR. RAKOWER:

Q Why would that bring more problems with his lawsuit?

A I have no clue. Because you guys are arguing over the rights to Robert Indiana's work, is what my assumption is.

Q Mr. McKenzie calls the production of LOVE art -- LOVE canvases "dirty."

Do you see that?

MS. ZERNER: Objection.

Go ahead.

A Yeah.

BY MR. RAKOWER:

Q You can answer, Mr. Ginexi.

A Yes, I see that in the text message.

Q Okay. Why was it dirty?

MS. ZERNER: Objection.

Go ahead.

A Because Michael didn't approve what was going on from Oz.

The way I'm reading this text message is that Oz went into his studio and was manufacturing things with his materials that Michael was not privy to or -- and/or wanted him to do, is what I

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to the subpoena; do you remember that?

A Yes.

Q And you were served with the subpoena some time this fall; right?

A Yes.

Q Okay. I want to go back in time.

Has there been a time before this fall that you collected documents to produce in this lawsuit?

A I was asked by Michael's counsel to produce documents for discovery in 2018 or '19. I produced documents and provided them with the -- the flash drive.

Q Do you remember who the counsel was who asked you to produce those documents?

A I do not recall if it was Simoni or Dunnington or somebody else. But I had provided on this one a copy of the receipt that I sent, the COD or sign-for-delivery or --

Q You said you provided them with a flash drive. Approximately how many documents did you provide them with?

A I don't recall.

Q Were there e-mails on that flash drive?

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A There was some stuff on there. I -- I don't -- I had videos, pictures, any other -- any documents I could come up with.

Q Were these documents that were collected from your personal computer?

A I had an older iMac computer at that time and it -- it -- it kind of crapped the bucket. It was a -- it won't even start anymore.

So I don't know what I put on that flash drive. So there might be more on that or less on that than I have provided this time.

Q And you said this was some time in 2018 or 2019; right?

A Yeah. It was when they sent me a letter requesting that I provide some -- any evidence and whatever -- you know, like, the subpoena's terminology.

Q Did you -- did you search your e-mails when in -- they asked you to provide documents?

A Yes, I went through my e-mails and my text messages and my photos and my videos and anything I had that I could find in reference to Robert Indiana and Michael McKenzie.

Q Did you read every e-mail or did you

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know.

Q Was there any period of time during which the entire staff was searching through boxes and checking files on the computer for weeks at a time?

A The entire staff? I don't know if the entire staff was doing it, but there was times where people were, you know, trying to get all the photo documentations for Michael and stuff like that.

Q So you can't -- the answer is no, you can't -- you can't recall any period of time where the entire staff was searching through boxes and checking files on the computer for weeks at a time?

A Not off the top of my head, no. I feel like it was always people being delegated different things at different times, you know?

Q And did you observe any efforts that Mr. McKenzie himself took to collect documents for production?

A I -- he had a legal team come in and go through everything and his computer and -- at one point. So -- was I there to witness it? I

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apply search terms?

A Some of them I just grabbed and put in there, some of them I -- I went through to see if it was relevant. I tried to provide as -- anything I could find, whether it was relevant or not, just to have it provided.

Q Did they -- did they provide you with a list of search terms you should apply to -- to identify relevant e-mails?

A I don't recall if they did or not.

Q Okay. Did you search for hard copy documents?

A I did, yes. But again, I didn't have any contracts or anything like that. So I didn't have any documents that would be prudent into that.

Q How long did you spend searching for documents?

A It felt like forever. Hours, days.

Q Was the -- was the other staff doing the same thing?

A Everybody that was working for Mike provided stuff, yes. As -- to the best of my knowledge. Everybody said they did. I don't

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don't -- I don't believe I was there to witness it, but I know what happened.

Q So putting -- putting aside what his staff did, did you ever observe Mr. McKenzie himself doing anything?

A No, not that I recall off -- off the top of my head.

Q So you -- you mentioned that Mr. McKenzie had a legal team come in. You're talking about come to the studio; right?

A Yes.

Q Okay. And do you remember when that was?

A That was probably '17 -- or '18 or '19 or maybe -- yeah, it was probably '19.

Q And you mentioned that they looked at the computer?

A I thought they went through his computers, yeah.

Q You're talking about Mr. McKenzie's personal computer?

A Yes.

Q All right.

A Yes, his personal computer and the

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2 studio computers.  
3 Q You saw them going through both?  
4 A No, I did not see them going through it.  
5 I was -- I assumed they went through them. He  
6 said they went through them, so --

7 Q "He" being Mr. McKenzie?

8 A Yes.

9 Q All right. So I'm just going to ask  
10 about what you observed, if that's --

11 A Yeah.

12 No, I didn't observe it.

13 Q So you never --

14 A I don't recall.

15 Yeah.

16 Q Did you see the attorneys come to the  
17 studio?

18 A No, I don't think I was there.

19 Q Okay. You weren't there. Okay.

20 So you don't recall ever seeing the  
21 attorneys come to the studio to search for  
22 documents?

23 A No.

24 Q And -- and you don't recall Mr. -- ever  
25 seeing Mr. McKenzie conducting a search of his own

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2 Q Okay. And the second time was on or  
3 around August 5th of this year. Does that sound  
4 about right to you?

5 A Yeah.

6 Q Okay. So I want to talk to you first  
7 about the time of the May 25th visit.

8 So let's -- let's go back in time to  
9 May 25th of this year; okay?

10 A All right.

11 Q Were you present when counsel for Morgan  
12 Art Foundation came to the property?

13 A No, I was not.

14 Q Okay. As of May 25th of this year,  
15 approximately how often were you coming in to the  
16 property in a given week?

17 A Two to three day a week.

18 Q Okay.

19 A Sometimes four. But -- but mostly two  
20 to three.

21 Q But you weren't there that day?

22 A No, I was not there that day.

23 Q But you generally -- you have a general  
24 understanding of where artworks were stored on the  
25 property around that time; right?

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2 for documents?

3 A I do not recall it.

4 Q Have you spoken -- you mentioned that  
5 you did speak to Mr. McKenzie about collecting  
6 documents for this lawsuit?

7 A Yes, I did.

8 Q Okay. Did he give you instructions in  
9 connection with that?

10 A He told me to provide everything that I  
11 have, you know, everything that I can come up  
12 with.

13 Q Okay. I'm going to switch gears. I  
14 want to talk to you about visits made by counsel  
15 for Morgan Art Foundation to Mr. McKenzie's  
16 property this year.

17 Are you aware that counsel for Morgan  
18 Art Foundation has visited Mr. McKenzie's property  
19 twice during 2021?

20 A Yes.

21 Q Okay. The first one -- the first time  
22 was on or around May 25th of this year; does that  
23 sound right to you?

24 A Yes. Again, I'm -- I'm not exactly sure  
25 of the dates, so it sounds about right.

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2 A Yes. Well, I -- particular pieces? No.  
3 But I know where art was in his property, yes.

4 Q Sure. So -- and let's -- I want to talk  
5 specifically about Robert Indiana artworks; okay?

6 A Okay.

7 Q So around the time of the May 25th  
8 visit, there were Robert Indiana artworks held in  
9 the art studio; right?

10 A Yeah.

11 Q Okay. And were there also artworks  
12 located at the -- the basement of Mr. McKenzie's  
13 residence?

14 A Yes.

15 Q Okay. Of Mr. McKenzie's inventory of  
16 Robert Indiana artworks, and I'm talking about at  
17 the time of May 25th, approximately what percent  
18 was held in the studio versus in Mr. McKenzie's  
19 basement of his residence?

20 A Oh, I don't know. Probably pretty close  
21 to 50/50. It was really just spread out by scale  
22 and volume and where he could put things and he --  
23 you know, I -- I'm not sure if you've ever been to  
24 the studio, but it's -- it's packed with stuff  
25 everywhere. It's kind of chaos.



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Q And at the time of the May 25th visit, were artworks located anywhere else -- Indiana artworks located anywhere else other than the studio and the basement of Mr. McKenzie's residence?

A I do not believe so. I -- I think that he had closed all his storage units by that point, that I knew of. All the ones I knew of.

Q Were any -- at that time, were any artworks located on racks outside?

A Racks outside? What -- what do you mean by that?

Q Why don't we -- why don't we pull up a document.

MR. RAKOWER: Can we pull up Tab three?

BY MR. RAKOWER:

Q Okay. Mr. Ginexi, do you see a document on your screen?

A Yes, I do.

Q Okay. So that document bears the Bates Stamp MAF0060248.

Do you see that in the lower right-hand corner of the document?

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holding up artwork. Those shelves were then transported to the Middletown unit and the artwork was put on that.

Q Got it. So artworks were taken out of the basement and put onto these shelves; right?

A No, not -- they were never outside. The artwork was never outside. The shelves were taken out to transport to Middletown.

Q Okay. Were any artworks transported to a storage facility before the May 25th visit?

A I don't -- I don't know. I don't recall.

Q Okay. And now putting aside artworks, I just want to talk about, you know, have you seen other paperwork on the property related to the fabrication or sale of Indiana artworks?

A No. No.

Q So you don't know where things like inventory records or sales records would be located on the -- on the property?

A I do not, no.

Q Okay. Have you ever heard Mr. McKenzie say to you that he was hiding documents?

A No.

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A Yes, I do.

MR. RAKOWER: Okay. I'm going to mark this document as Exhibit 3.

(Whereupon, Exhibit No. 3, Bates Number MAF0060248, Photo, was marked for identification.)

BY MR. RAKOWER:

Q Do you recognize the -- the building that's in the background of this document?

A Yes, I do.

Q Okay. This is an image; right?

A Yes.

Q Okay. And what's that building?

A It's Michael McKenzie's house.

Q Okay. And that's what you referred to as the big red barn earlier or something to that effect?

A Yes.

Q Okay. And do you see that there are wood structures right in front of the building?

A I do.

Q Okay. Have you seen those structures before?

A Those shelves were inside the basement

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MR. RAKOWER: Let's take this document down. I think this has been marked as Exhibit 3, so let's take it down.

I want to pull up Tab 12.

MS. ZERNER: Ryan.

MR. RAKOWER: Yeah.

MS. ZERNER: I wanted to just clarify before you move on to this exhibit.

Can you confirm that the -- I think you marked it -- so the -- the exhibit with the text messages between Tim and Mike that I think was marked Exhibit 2, you only showed the first page.

Are you -- did you put the full six pages in as an exhibit?

MR. RAKOWER: Yeah, I'd like to put the full -- the full -- and that -- same applies for all these documents. I'd like to put the full document in as an exhibit.

MS. ZERNER: Great. Thank you.

MR. RAKOWER: Yeah. I don't think

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we need to scroll through each page on this screen, and Bridget, I sent you a link with -- with the documents. And -- and these documents -- you know, I'll represent to you, including this one that we have up on the screen, were either, you know, produced by us or they were produced by -- by your client.

So including -- so why don't we -- why don't we start with this one.

BY MR. RAKOWER:

Q So this is -- Mr. Ginexi, I'll represent to you on the record that I -- I took this document from your production of documents made in response to our subpoena; okay?

A Okay.

Q Do you recognize this?

A It's text messages between Oz and Mike.

Q Okay. Are you party to these text messages as well?

A They -- yeah, sometimes I would be included on things that I didn't have anything to do with. So I would either read them or get -- you know, get rid of them. I didn't really get

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A Yes.

Q Okay. Let's go to page five of these text messages.

Okay. And you see that -- first of all, do you see that there's a big black box on the screen?

A Yeah.

Q Do you know what that is?

A Those were images sent from Oz. I don't remember exactly what they were, but they were -- you know, they were -- Oz used to send a whole bunch of art all the time to everybody, and a lot of it was, you know, his own work or stuff -- his interpretations of things and -- so I don't know if that was one of his pieces or something he was doing for Mike or something he wanted to do for Mike.

But it looks like it was a HOPE Olstein (phonetic) thing, according to the text messages here.

Q Do you know why it appears as a big black box?

A I do not, no. Bridget was asking me that too. I don't -- I don't know why it did

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involved in anything I shouldn't -- shouldn't be involved in, like text messages between these two. I don't -- they were chatting. I didn't really read it much at the time, but I sent it on to provide everything I could.

Q And Mr. Ginexi, I -- I see that these are -- I think this says iMessage at the top. This is taken from your iPhone; right?

A Yes.

Q Okay. And this is -- this is a group chat; right?

A I believe so, yes.

Q This is a group chat between you, Oz Gonzalez, and Mr. McKenzie; is that right?

A Well, I don't even see me in the message. I guess they were talking to each other.

Q Well, you see on the top right corner, right, there's a -- there's a text -- there's a text on the right side of the screen that says --

A Yeah.

Q -- "I'm coming down to get my check. I will be there shortly"? You see that?

A Yes. Yeah, that's me.

Q That's sent by you; right?

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that.

Q Those aren't -- those aren't redactions as far as you're aware; right? They're just --

A No. No. Just -- I don't know why it did that.

Q Got it. Okay. So if you look at Mr. McKenzie's message on January 10th, it looks like it's of this year; right?

A Yes.

Q Okay. So January 10th, 2021, Mr. McKenzie messages you and Oz Gonzalez and he says, "What did you think of the three letters to Luke Estate and Conty?"

Do you see that?

A Yes.

Q Okay. And Mr. McKenzie, is -- is he referring to draft letters that were prepared by him?

A I don't know. He's talking to Oz. I don't know what letters he's talking about.

Q Well, he included you on the text message; right?

A I don't know who included me on the text message. I don't know who originated the text

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message.

Q Well, you have a text message thread between you, Mr. McKenzie, and Oz; right?

A Yes.

Q Okay. And Mr. McKenzie decided to send this message to that text message thread that includes both you and Oz; right?

A Yes.

MS. ZERNER: Objection.

A Well, I don't know if it was Mike that included me or not. I don't know who started the text message.

I wouldn't have started the text message with Oz and Mike. You know, that's not what I would have done.

BY MR. RAKOWER:

Q Well, Mr. McKenzie has Mr. Gonzalez's phone number; right?

A Yes.

Q Okay. And if Mr. McKenzie wanted to text just Oz Gonzalez and not include you on the thread, he could have sent this just to Mr. Gonzalez; right?

MS. ZERNER: Objection.

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A Yes, I received the text message.

Q Okay. And Mr. McKenzie refers to three letters to Luke Estate and Conty; do you see that?

A Yes, I do see that.

Q Do you know who Luke is?

A I do not know who Luke is.

Q Okay. The estate is referring to Mr. Indiana's estate?

A That is what I gathered.

Q Okay. And do you see that Mr. -- Mr. Gonzalez asks if Mr. McKenzie "sent them to John as drafts"?

Do you see that?

A Yes, I do see that.

Q Okay. Is that -- is he referring to John Markham?

MS. ZERNER: Objection.

Go ahead.

BY MR. RAKOWER:

Q You can answer.

A I don't recall -- I don't -- I would guess it would be him giving legal advice to Michael.

Q And Mr. McKenzie says, "Yes. I think

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Go ahead, Tim.

A And Oz could have done that too.

Q Right.

A So what's the --

BY MR. RAKOWER:

Q Right. Both of them could have done that. But Mr. McKenzie sent this message to both you and Mr. Gonzalez; right?

A Well, the message has me included on it, so yeah.

Q Okay.

A You know, Oz used to cc everybody on everything, you know. It was, like, ridiculous.

So most of the documents, if I didn't have to -- you know, if I wasn't involved in that aspect of the studio, I didn't even read it or I deleted it at the time.

Q Do you know --

A I didn't know I was going to be showing them as evidence, you know?

Q Sure.

A So --

Q You -- you received this text message though; right?

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they need a wake up call. Everyone [sic] is hiding documents then pretending they want to settle. I'm just giving them a map of where they are headed. The fraud will shut this down."

Do you see that?

A Yes, I do.

Q What does he mean "everyone is -- everybody is hiding documents?"

Do you see that?

A I don't know.

MS. ZERNER: Objection.

BY MR. RAKOWER:

Q "Everybody" includes Mr. McKenzie; right?

MS. ZERNER: Objection.

A No. The way I -- the way I interpret that is that he's referring to other parties, not himself.

But again, I don't know what documents he's referring to or what he's talking about, so --

BY MR. RAKOWER:

Q Did Mr. McKenzie ever talk to you about the prospect of settlement?

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A Yeah. He -- he was interested in settlement and wanting to move forward with the brand and help everybody make money, you know.

Q When's the last time he spoke to you about the prospect of settlement?

A Probably -- when was that? I think it was while Oz was still in the studio.

Q Is that some time this summer?

A Yeah, it was in the summertime.

Q And what did he say to you?

A That he wants the case to settle and, you know, stuff of that nature.

Q Did he ever speak to you about the prospect of closing his business?

A He had referenced to me that he was going to shut down.

Q And what did you understand shutting down to mean?

A That he wasn't going to be manufacturing art anymore or publishing people or stuff of that nature.

Q Did Mr. McKenzie ever discuss with you the prospect of selling his existing Indiana inventory?

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property between those visits?

A I don't recall exactly if they were, but he's -- he was always moving stuff around his property itself, so bringing it down, organizing it down in the barn, or bringing it back up to the studio.

Whether he had somebody coming to get it and he told us to get it ready and bring it up to the -- the studio, or bring it down from the upstairs of the studio, or -- you know, or it just came back from somewhere.

There was never -- I don't recall if we moved anything in between that time period, but we may have.

Q At some point, Mr. Ginexi, artwork was moved from the basement of Mr. McKenzie's residence to a storage facility in Middletown?

A Yeah.

Q Correct?

A That is correct.

Q Okay. And you mentioned that there were multiple runs; right?

A Yes.

Q And a -- Mr. McKenzie's truck was used

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A No. He wouldn't discuss that with me. I -- I'm not buying that. I can't afford it, so it has nothing to do with -- it had nothing to do with me.

Q All right. So I want to -- we -- we -- I don't know if we've marked this document as the next exhibit. Let's do that. I think it's Exhibit 4 and then we can take this off the screen.

(Whereupon, Exhibit No. 4, Text Message Thread, was marked for identification.)

BY MR. RAKOWER:

Q So Mr. Ginexi, I want to bring you back -- back in time and let's talk about -- you know, we talked about there were two visits, right, by -- by Morgan Art Foundation's counsel.

One in or around -- on or around May 25th and one on or around August -- August 5th; do you remember that?

A I recall that, yes.

Q Okay. I want to talk about the time period in between those -- those visits.

Were any artworks moved off of the

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to transport those artworks; correct?

A He had -- yes. He had a truck that he owned and one that he rented, and cars -- his car. And he, you know, brought stuff up in that too.

Q And I think you mentioned something along the lines of it was a decent amount of artwork; is that right?

A It was, yes. It was a decent amount of artwork. He pretty much moved everything out of that basement, yeah.

Q I think we -- we went over some of the artworks that were there.

There were HOPE artworks, there were other Indiana artworks; right?

A Yeah. Yeah.

Q Okay. Who was involved in moving the artworks from the basement to the storage facility?

A He had a moving company up in Middletown that helped, but it was me and Nat and Oz and Michael.

Q And did Mr. McKenzie tell you why the artworks were being moved?

A He said that he wanted it in a safer

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1 TIMOTHY GINEXI  
2 place where they didn't have the risk of being  
3 damaged, so he wanted to move them up to  
4 Middletown.

5 Q Okay.

6 MR. RAKOWER: Can we pull up  
7 Tab 13?

8 TECHNICIAN: Sorry, I don't believe  
9 that I have a Tab 13 that has been sent  
10 to me. I only have one through 12.

11 MS. ZERNER: I didn't receive a  
12 Tab 13 either in my link.

13 MR. RAKOWER: I don't think I have  
14 a Tab 13. Why don't we try Tab seven.

15 TECHNICIAN: All right. That  
16 works.

17 MR. RAKOWER: Apologies.

18 BY MR. RAKOWER:

19 Q All right. Mr. Ginexi, do you see a  
20 document on your screen?

21 A I do.

22 Q Okay. This document bears the Bates  
23 stamp on the lower right-hand corner MAF0060242;  
24 do you see that?

25 A I do.

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1 TIMOTHY GINEXI  
2 Q Okay. And do you see that those  
3 artworks are being moved without covers?

4 A I do.

5 Q Okay. Did you ever observe artworks  
6 being transported without covers at Mr. McKenzie's  
7 direction?

8 A Yes, I did.

9 Q Okay. So notwithstanding that  
10 Mr. McKenzie had expressed concerns to you about  
11 the risk of artworks being damaged, he also  
12 ordered that artworks be loaded into the trunk of  
13 a vehicle without any covering; correct?

14 A Yes.

15 Q Okay.

16 MR. RAKOWER: We can take this  
17 document down.

18 BY MR. RAKOWER:

19 Q Did Mr. McKenzie give any other  
20 explanation as to why he was moving artworks from  
21 the -- the basement of the residence to the  
22 storage facility?

23 A No.

24 Q Okay. Did you ever ask him?

25 A No. I assumed what he was telling me

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1 TIMOTHY GINEXI

2 Q Okay.

3 MR. RAKOWER: I'd like to mark this  
4 with the next exhibit number. I believe  
5 it's Exhibit 4.

6 COURT REPORTER: Five.

7 MR. RAKOWER: Thank you.  
8 Exhibit 5.

9 (Whereupon, Exhibit No. 5, Bates  
10 Number MAF0060242, Photo of Car,  
11 was marked for identification.)

12 BY MR. RAKOWER:

13 Q Do you recognize the vehicle in this  
14 photograph?

15 A Yes.

16 Q Whose vehicle is that?

17 A That's Annette's car.

18 Q Okay. Was Ms. Vessecchia's car used to  
19 transport artworks from the basement of the  
20 residence to the storage facility?

21 A No. Not that I recall. It was used to  
22 move the art from the studio to the red barn.

23 Q Okay. Do you see that there are Robert  
24 Indiana artworks in the trunk of the car?

25 A Yes.

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1 TIMOTHY GINEXI  
2 was the truth.

3 MR. RAKOWER: Let's pull up  
4 Tab four.

5 BY MR. RAKOWER:

6 Q Mr. Ginexi, do you see a document on  
7 your screen?

8 A Yes, I do.

9 Q Okay. I'll represent that this was  
10 taken from your production of documents.

11 Do you see that this was an e-mail that  
12 was sent by Mr. McKenzie to you and others?

13 A Yes, I do.

14 Q It was sent on or around July 4th of  
15 this year?

16 A Uh-huh.

17 Q Okay. Mr. McKenzie writes, "We will  
18 meet at 8 a.m. I will have bus in front of the  
19 house. We will go up 22 fill up diesel full then  
20 stop at Home Depot to pick up ten sets of metal  
21 shelves."

22 Do you see that?

23 A Yes.

24 Q Okay. What were the metal shelves for?

25 A To pick up. I'm sorry. Bad joke.



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TIMOTHY GINEXI

The -- they were for storing the art in Middletown.

Q Okay. And it was around this time -- I'll strike that.

Before you received this e-mail, do you recall having transported any artworks from the -- the property to Middletown?

A Before this e-mail I do not recall moving stuff up to Middletown.

Q To the best of your knowledge, did the transportation of artworks from the property to -- to Middletown begin some time after you received this e-mail?

A I believe so.

MR. RAKOWER: Let's mark this the next exhibit number, I think it's Exhibit 6, and then we can put it to the side.

(Whereupon, Exhibit No. 6, E-mail from Michael McKenzie, was marked for identification.)

MR. RAKOWER: Okay. Let's pull up Tab five.

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Q And is that packing the vehicle up with artworks?

A Yes.

Q Okay. And what are the shelves for?

A To hold the artwork in the -- in the storage unit.

Q And the transport -- this -- this e-mail is referring to the transportation of artworks; right?

A Yes.

Q Okay. And that transportation was set to occur some time after this e-mail was sent?

A Yes.

Q Okay.

MR. RAKOWER: Let's mark this as Exhibit 7 and then I want to put the document to the side.

(Whereupon, Exhibit No. 7, E-mail from Michael McKenzie, was marked for identification.)

MR. RAKOWER: Could we pull up Tab six?

BY MR. RAKOWER:

Q Mr. Ginexi, do you see a document on

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BY MR. RAKOWER:

Q All right. Mr. Ginexi, do you see a document on your screen?

A Yes.

Q I'll represent to you that I took this document from your production of documents that you made in response to the subpoena.

Do you know who pjarlicense@AOL.com is?

A I believe that's Michael.

Q And Mr. McKenzie sent an e-mail to you and others?

A Yes.

Q Okay. And this e-mail was sent to you on or around July 5th of this year?

A Yes.

Q Mr. McKenzie says, "Given how long it took I think starting at 8 a.m. Again hopefully finish packing by 1030 get there at 12. Assemble the shelves and be done by 200."

Do you see that?

A Yes.

Q What packing is he referring to?

A Packing of the vehicle to go to Middletown, I believe.

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your screen?

Okay. I'll represent that I took this document from your production of documents made in response to our subpoena.

A Yes.

Q And this is an -- this is an e-mail from Mr. McKenzie to you and others?

A Yes.

Q And this was sent on or around July 21st, 2021?

A Yes.

Q Okay. Mr. McKenzie says, "Truck is at studio. I need to bring down another 20 portfolios before we leave for storage."

Do you see that?

A Yes.

Q Okay. The truck that Mr. McKenzie is referring to is -- is being used to transport artworks?

A Yes.

Q Okay. What -- what is Mr. McKenzie referring to with regard to portfolios?

A I believe it was the Four Seasons of Hope.

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Q And those are Indiana artworks; right?

A Yes.

Q And where were those artworks being held?

A Either at storage or he was bringing them into the studio.

Q And Mr. McKenzie's plan was to transport artworks that day?

A I believe so, yes.

Q Or some time the next day?

A Yeah.

Q Okay.

A Or around that time period.

Q Okay.

MR. RAKOWER: We can -- we can put this document to the side.

Do you recall -- actually did we mark that document as the next exhibit? If not, let's mark it as Exhibit 8.

(Whereupon, Exhibit No. 8, E-mail from Michael McKenzie, was marked for identification.)

BY MR. RAKOWER:

Q Mr. Ginexi, you mentioned that you

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recall -- actually, I'll ask you: How many -- approximately how many trips do you recall participating in moving artworks from the property to -- to Middletown?

A At least three, two or three.

Q Okay.

A Definitely two. I believe it was three or it could have even been more. But --

Q And --

A -- it was a decent amount of trips.

Q Were each of those trips in July of this year?

A When it was very hot, yes.

Q Do you -- Mr. Ginexi, you don't recall any trips after the -- after August 5th, do you?

A No. Well, I don't recall. It doesn't mean we didn't, no.

Q But you can't recall any though; right?

A No, I can't recall but --

Q All right. And, you know, we talked about moving artworks from the property to -- to the storage facility.

Do you recall moving any hard copy documents off of the --

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A No.

Q -- property? Okay.

A I don't. No.

Q All right. Were you present for the August 5th visit?

A No, I wasn't.

Q Did you ever speak to Mr. McKenzie about the August 5th visit?

A No. He -- he complained, but that was about it.

Q What did he complain about?

A He complained that he didn't have all of the information from Morgan and that he felt like he was being invaded, you know.

Q If it -- did he give -- give you the sense that if it were up to him, there wouldn't be a visit on August 5th?

A No. But, you know, he was -- he was visibly angry about it. He wasn't happy that people were coming in and out of his space and disrupting his business.

Q And what do you mean by "being invaded"? Was -- was Morgan visiting against his will?

A No. Just -- you know, it -- it -- it

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was just very intrusive, you know, he -- because he was doing work in his house and stuff like that. You know, nobody is going to want people going through their -- you know, their -- their private possessions and --

Q So why did -- why did he -- why did he allow Morgan to do that?

A Why did --

MS. ZERNER: Objection.

A I don't know. I don't know why he would have -- you know, what his thoughts were. I don't know.

BY MR. RAKOWER:

Q Did he ever mention to you that he -- that the visit was required by court order?

A Yes, he did.

Q Okay. Do you recall discussing that with him?

A Not in detail, no. Just that Morgan was -- had a court order to come in and, you know, go through his art.

Q When did he say that to you?

A Oh, I don't recall the exact date. It was in or around -- it was around, before or

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1 TIMOTHY GINEXI

2 after, they came.

3 Q Okay. I want to switch gears for a  
4 second.

5 MR. RAKOWER: Let's -- let's pull  
6 up Tab nine.

7 BY MR. RAKOWER:

8 Q Okay. Mr. Ginexi, do you see a document  
9 on your screen?

10 A Uh-huh.

11 Q Okay. I'm going to represent to you  
12 that -- that this document came from the  
13 production of documents that you made in response  
14 to our subpoena.

15 A Yeah.

16 Q Okay. Did you receive this text  
17 message?

18 A I did.

19 Q Okay. Do you see that there's a message  
20 on the top of the screen from Mr. Gonzalez?

21 A I do.

22 Q Okay. And Mr. Gonzalez writes in the  
23 middle of his message, "Please let him know that I  
24 have enough information about the inner workings  
25 of his operation to 'Bury Him.'"

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1 TIMOTHY GINEXI

2 A No. I -- I don't -- I'm not saying  
3 that. I'm -- I'm just saying that I'm not privy  
4 to what he's talking about because I'm not  
5 involved in the -- the legal aspect of Michael's  
6 business, you know.

7 BY MR. RAKOWER:

8 Q All right. You see there's a response  
9 from somebody by the name of Peggy Cyphers?

10 A Yes.

11 Q Who is that?

12 A That's Mike's girlfriend.

13 Q Do you know her?

14 A She's in -- yes. She's -- she's around.  
15 I -- I don't know her, like, personally. I -- I'm  
16 polite and cordial when I see her, but I wouldn't  
17 say I'm best friends with her or anything.

18 Q Does she live with Mr. McKenzie?

19 A She does.

20 Q Okay. And Ms. Cyphers says, "Hi Oz, I  
21 understand, hope you can get this talked out  
22 amicably. He's ready to close his business I  
23 guess. And looking to start fresh."

24 Do you see that?

25 A Yes, I do.

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1 TIMOTHY GINEXI

2 "If there is a swindler and a Liar it's  
3 him.

4 "One more attack from him and I will  
5 contact Lipson and Nikas and make his life and  
6 business ugly. I have the goods."

7 Do you see that?

8 A Yes.

9 Q Okay. What information do you  
10 understand Mr. Gonzalez to be referring to here?

11 A Blackmail.

12 Q What kind of blackmail?

13 A I don't know. I don't know what he's  
14 talking about, but it -- it's definitely him  
15 threatening Michael and trying to -- seems like,  
16 extort him.

17 But other than that, I don't know what  
18 documents or images or information he claims to  
19 have. Again, he -- he worked with Mike on a  
20 different level than I worked with Mike, so I  
21 don't know.

22 Q So he may have been privy to -- to  
23 wrongdoing by Mr. McKenzie that you wouldn't have  
24 known about; is that right?

25 MS. ZERNER: Objection.

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1 TIMOTHY GINEXI

2 Q Okay. What do you understand  
3 Ms. Cyphers to be talking about?

4 A It seemed like she was trying to diffuse  
5 any situation that was going on. Other than that,  
6 I don't -- I don't know.

7 Q She mentions that Mr. McKenzie is ready  
8 to close his business; right?

9 A Yes.

10 Q And you mentioned that this is something  
11 that you had spoken to Mr. McKenzie about; right?

12 A Well, he brought it up to me too. So --  
13 and he brought it up to Oz. So Oz was -- I heard  
14 Oz say to Michael once that he was -- you know,  
15 you can't close your business because of my -- you  
16 know, it affects my family and stuff like that,  
17 you know.

18 I think Michael closing his business  
19 affects everybody that's employed there's family.  
20 So I don't know what -- you know, Oz took a very  
21 personal stance against Mike on that and -- you  
22 know, so I don't know.

23 Q To your knowledge, is Mr. McKenzie still  
24 looking to close his business?

25 A He hasn't brought it up recently but I'm

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1 TIMOTHY GINEXI  
 2 sure he is, you know.  
 3 MR. RAKOWER: Let's mark this with  
 4 the next exhibit number. I think it's  
 5 Exhibit 9.  
 6 (Whereupon, Exhibit No. 9, Group  
 7 Text Message from Oz Gonzalez, was  
 8 marked for identification.)  
 9 MR. RAKOWER: And let's put it to  
 10 the side.  
 11 BY MR. RAKOWER:  
 12 Q Mr. Ginexi, we discussed earlier that  
 13 Mr. Gonzalez submitted a declaration in this case?  
 14 A Yes.  
 15 Q Okay.  
 16 MR. RAKOWER: Let's pull up  
 17 Exhibit 1 and go to PDF page ten. It's  
 18 also Tab one.  
 19 BY MR. RAKOWER:  
 20 Q Okay. This is Mr. Gonzalez's  
 21 declaration.  
 22 Do you recognize it?  
 23 A Yes.  
 24 Q Okay.  
 25 MR. RAKOWER: Let's turn to

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1 TIMOTHY GINEXI  
 2 A Yes.  
 3 Q Okay. And then there was a -- a hiatus;  
 4 correct?  
 5 A Yes.  
 6 Q And then at some point in 2019,  
 7 Mr. McKenzie instructed Ms. Vessecchia to resume  
 8 stamping art -- canvas artworks with Indiana's  
 9 stencil; correct?  
 10 A Yes.  
 11 Q Okay. So paragraph ten, the next  
 12 sentence says, "The stencils were designed by  
 13 Indiana during his lifetime and have specific  
 14 years that are intended to indicate the year in  
 15 which the artworks were created."  
 16 Do you see that?  
 17 A Yes, I do.  
 18 Q Okay. Is that consistent with your  
 19 understanding?  
 20 A No. When the stencil -- or the project  
 21 is being produced, the understanding was -- and  
 22 this -- this is coming from Michael -- that the  
 23 artwork is to be stamped within the year the --  
 24 the -- the project was being done.  
 25 So if there was works that needed to be

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1 TIMOTHY GINEXI  
 2 paragraph ten, which is on -- I think  
 3 it's two pages from this. Yes.  
 4 BY COURT REPORTER:  
 5 Q Okay. And Mr. Ginexi, you mentioned  
 6 that you read this declaration; right?  
 7 A Not recently. I'm just reviewing it  
 8 right now.  
 9 Q Okay. Let me know when you're ready  
 10 to -- for me to continue asking questions.  
 11 A You can go ahead.  
 12 Q Okay. Do you see in the second  
 13 sentence, Mr. Gonzalez says, "McKenzie uses a  
 14 stencil and a stamp to forge Indiana's signature  
 15 on the back of artworks."  
 16 Do you see that?  
 17 A Yes.  
 18 Q Okay. And we discussed earlier that at  
 19 one point, you used to apply Mr. Indiana's seal on  
 20 canvas artworks; correct?  
 21 A Yes.  
 22 Q Using a stencil; correct?  
 23 A Yes.  
 24 Q Okay. And that you -- you stopped doing  
 25 that some time before Mr. Indiana died; correct?

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1 TIMOTHY GINEXI  
 2 filled in on the contract within those years, then  
 3 they would be stamped with those years to be  
 4 consistent with the work that was being produced  
 5 prior.  
 6 So I -- I -- according to what Michael  
 7 was referencing, this doesn't coordinate with  
 8 that.  
 9 Q So first of all, this is all just coming  
 10 from Mr. McKenzie; right?  
 11 A Yeah.  
 12 Q Because we already established you never  
 13 heard any of this from Mr. Indiana; correct?  
 14 A Yes.  
 15 Q Okay. So under Mr. McKenzie's --  
 16 under -- under the theory that Mr. McKenzie  
 17 explained to you, okay --  
 18 A Yes.  
 19 Q -- let's say a project was -- began in  
 20 the year of 2013; okay?  
 21 A Yes.  
 22 Q And let's suppose that there was a -- a  
 23 pause in the production of those artworks; okay?  
 24 A Yes.  
 25 Q And let's suppose that Mr. McKenzie or

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1 TIMOTHY GINEXI  
2 someone at his direction resumed some time in 2019  
3 after Mr. Indiana died; okay?

4 A Uh-huh.

5 Q Under Mr. McKenzie -- under what  
6 Mr. McKenzie instructed you, would it be  
7 acceptable to stamp one of the -- one of the  
8 artworks in 2019 with a stamp bearing  
9 Mr. Indiana's seal and the -- the year 2013?

10 A In that situation, I believe so, yes.

11 Q Okay. And I know I described a  
12 hypothetical situation, but is that what was  
13 actually occurring?

14 A Well, what was being told to us was to  
15 manufacture the things that were remaining on his  
16 contract, to finish his contract, and then when  
17 the contract was done, he was done.

18 So that was pretty much the -- what we  
19 were told to do.

20 Q And you were told that by Mr. McKenzie?

21 A Yes.

22 Q Okay. Paragraph ten continues, "None of  
23 the stencils post-date 2018, when Indiana died,  
24 yet McKenzie has used those stencils after  
25 Indiana's death to sign works, falsely indicating

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1 TIMOTHY GINEXI  
2 stopped doing it; right?

3 A Yes.

4 Q Okay. After you stopped doing it, did  
5 Mr. McKenzie ever ask you to resume stenciling  
6 Mr. Indiana's seal on artworks?

7 A No. He wanted me to produce.

8 Q So -- so he never asked you?

9 A No. He would say, "We should finish  
10 this," or that -- this and that. But he was  
11 insinuating that it would be -- you know, it has  
12 to be stamped, but he wasn't saying me to do it.

13 Q But he was instructing that artworks  
14 needed to be stamped; right?

15 A Yes. And -- and he was asking Annette  
16 to do it so --

17 Q All right. Paragraph ten continues,  
18 "Ginexi told me that he refused to stencil  
19 Indiana's signature, and that McKenzie's requests  
20 made him feel uncomfortable because the artworks  
21 McKenzie asked Ginexi to stencil were not  
22 authorized by Indiana."

23 Do you see that?

24 A I do see that.

25 Q Okay. Did you ever discuss the use of a

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1 TIMOTHY GINEXI  
2 that Indiana signed the works and falsely  
3 indicating the year in which the works were  
4 created."

5 Do you see that?

6 A Yes.

7 Q Did -- did you ever see a stencil that  
8 post-dates 2018?

9 A No.

10 Q Okay. All right. The next sentence  
11 goes on to say, "Further, McKenzie's printer, Tim  
12 Ginexi, told me that McKenzie asked him multiple  
13 times to use a stencil to forge Indiana's  
14 signature on artworks."

15 Do you see that?

16 A Yes.

17 Q Okay. And I think we established that  
18 for a period of time, you were applying a stencil  
19 with Mr. Indiana's seal on it on canvas artworks;  
20 correct?

21 A Yes.

22 Q And that you were doing so at  
23 Mr. McKenzie's direction; correct?

24 A That is true, yes.

25 Q Okay. And then at some point you

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1 TIMOTHY GINEXI  
2 stencil with Mr. Gonzalez?

3 A No.

4 Oz -- Oz is a lying piece of shit. So,  
5 you know, he -- he's -- I -- this is bullshit.

6 The thing is, my value in the studio to  
7 Mike is to make the art. If he has me doing these  
8 things for hours and hours, he's not getting more  
9 art.

10 So to Mike, where his value is, is  
11 having me produce it, not sit there and stamp when  
12 it -- it's already been done.

13 Q You called Mr. Gonzalez a "lying piece  
14 of shit"?

15 A Yeah.

16 Q Are you still in touch with  
17 Mr. Gonzalez?

18 A No. This whole thing was -- the way it  
19 went down it was so crazy. I -- like -- he used  
20 to be -- I used to think he was a good guy and  
21 now, like, he's -- you know, Mike came to privy on  
22 some things that he said Mike -- this is the way I  
23 was taught. Mike had documents proving Oz's bad  
24 history and he had those documents out.

25 He said that Oz may have seen it because



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he started the process of getting rid of Oz and then all of this stuff started happening where Oz was filling out depositions and allegations against Annette, me, and Mike.

And, you know, it just -- it seemed like it really caught me off guard and I was surprised and I was, you know, a little upset because, you know, I thought Oz was there to help Mike. I didn't know he was there, you know, trying to leverage himself in some situation or whatever he was trying to do.

It seems like he was trying to -- he was trying to extort Mike, according to these allegations, and what the text message I had, you know, it was a little -- a little -- a little shady.

So -- sorry for my bad language on the record. You know, I apologize.

Q So Mr. Gonzalez stopped working for Mr. McKenzie some time around August of this year; right?

A I believe so.

Q Okay. Before Mr. Gonzalez stopped working for Mr. McKenzie, you thought he was a

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stuff, I produced stuff, you know.

Oz was in there talking legal stuff, whatever he was talking. I just assumed he was on, you know, Michael's side and was, you know, not going to be a -- you know, trying to take advantage of situations and create drama.

Q I just -- thank you. And sorry, I just -- I -- I want to just have sort of a clear answer on -- on the record.

You didn't believe that Mr. Gonzalez was a liar --

A I didn't a hundred percent trust him because of some of the things he would say, but, you know, I didn't, you know, think of him as an extortionist, no.

Q And sorry, and -- and -- I apologize but I have to get the end of my question in so the court reporter can take it down, just so the record is really clear.

So you didn't -- and I'm going to -- I'm just going to ask it again, just so the -- the answer -- the question is completely on the record, and then you can put your answer on the record.

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good guy; right?

A Well, he -- he was kind of a pain in the ass. He was always around chatting. He always wanted to talk about his artwork that he created on his own.

And I would try and help him with it. You know, he was -- he wanted to be an artist. So I would talk to him about his art and try and help him, like, aesthetically with his own work and stuff like that, you know.

Q You mentioned -- you mentioned you were surprised when -- when all this went down; right?

A When the -- when the text message went through, I was surprised, yes.

Q Because that -- you know, it -- in other words, I guess -- and pardon my language -- you didn't have the sense that Mr. Gonzalez was a lying piece of shit before Mr. Gonzalez stopped working with Mr. McKenzie; right?

A Well, does anybody when you -- when you are caught in a situation like that, you know? So I was defrauded by him too.

So I would -- just did my job. You know, I went into work, Mike told me to produce

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Before Mr. Gonzalez stopped working for Mr. McKenzie, you didn't believe he was a liar; right?

A I didn't believe everything he said. So I guess I did believe he was some sort of a liar, just I didn't believe it was like that.

Q Okay. The next sentence in -- in paragraph ten says, "Ginexi also told me that he has, for many years, felt uncomfortable making Robert Indiana artworks for McKenzie because he believed they weren't authorized by Indiana."

Do you see that?

A Yeah. Well, I -- I saw Robert Indiana signing work, so, you know, I don't know what he's talking about.

Q You don't recall having a conversation like this with -- with Mr. Gonzalez?

A No.

Q Okay.

MR. RAKOWER: We can take this down. Not -- don't take down the exhibit. Just -- I want to go to the next paragraph, paragraph 11. Okay.

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2 BY MR. RAKOWER:

3 Q And I just want to read the first two  
4 sentences.

5 It says, "I have seen McKenzie pressure  
6 Annette Vessecchia, another employee of McKenzie,  
7 into stenciling Indiana's signature on  
8 unauthorized works. Vessecchia told me she was  
9 reluctant to stencil Indiana's signature on the  
10 artworks because they were not authorized, but she  
11 told me that McKenzie intimidated her into doing  
12 so."

13 Do you see that?

14 A Yes.

15 Q Okay. Did you ever observe Mr. McKenzie  
16 pressuring Ms. Vessecchia into stenciling or  
17 signing an artwork?

18 A No. If anything, Mr. McKenzie is very  
19 patient and, you know, good to Vessecchia so --  
20 from what I've seen, you know. It's not -- I've  
21 never even seen him raise his voice to her, so --

22 Q To your knowledge, does -- does  
23 Mr. McKenzie own a gun?

24 A Not to my knowledge.

25 Q Okay. Have you ever heard Mr. McKenzie

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2 Q You've seen Mr. McKenzie lose his temper  
3 before?

4 A Yeah. He's, you know, gotten mad. He's  
5 gotten mad at -- at employees, he's gotten mad at  
6 me.

7 But, you know, he's never -- you know,  
8 he's said, "Shut up," or, "You're stupid," or this  
9 or that.

10 But, you know, like -- not, like,  
11 threatening my life or anything.

12 Did I take offense to it? No. It is  
13 what it is.

14 Q Have you ever heard Mr. McKenzie talk  
15 about guns?

16 A Not -- not his own guns and stuff like  
17 that, you know.

18 Q Whose guns?

19 A No, just like, you know --

20 (Whereupon, the court reporter  
21 requests clarification.)

22 THE WITNESS: Who what was that?

23 BY MR. RAKOWER:

24 Q That was the -- sorry. That was the  
25 court reporter.

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1 TIMOTHY GINEXI

2 discuss gun violence?

3 A You know, Mike is a very loud, outgoing  
4 guy.

5 Like, he -- you know, when he's upset,  
6 he -- you know, he'll write letters and, you know,  
7 and -- and talk stupidly.

8 But do I think it's true or -- or -- no.  
9 Do I think he's going to be violent? No.

10 But, you know, he has said some things  
11 that were not -- you know, not great, you know.

12 Q He's said some things about gun  
13 violence?

14 A I don't know if it was about gun  
15 violence, but, you know, he -- he's said, like,  
16 things, you know, indirectly that were, you know,  
17 just, you know, out of anger, you know?

18 Q Like what?

19 A Like, you know -- I'm trying to think of  
20 something he's said, because he just -- he rants,  
21 you know. So he was pissed off and complained  
22 about people. I don't know.

23 I don't remember an exact instance or  
24 what exactly he said, but I knew it wasn't like,  
25 you know, out of a happy place.

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2 That -- that was my mistake. I --  
3 I'm -- I'm going to let you finish your answer.

4 So my question to you was: Did you  
5 ever -- have you ever heard Mr. McKenzie talk  
6 about guns?

7 A No. No.

8 Q You never heard Mr. McKenzie mention a  
9 gun before?

10 A Well, he's talked about, like, street  
11 sweepers or -- and stuff like that, but not, like,  
12 in the context of killing anybody, you know?

13 Q What's a street sweeper?

14 A I guess it's, like, a machine gun or  
15 something. I don't know.

16 Q He's talked about machine guns with you?

17 A Yeah, but just out of, like -- I  
18 guess -- I guess he likes gun. I don't know.

19 Q What makes you --

20 A I'm not a big gun guy, so I don't even  
21 know what it is.

22 Q What makes you believe that Mr. McKenzie  
23 likes guns?

24 A You know, just -- like -- I don't know.  
25 Just because he would talk about them every now

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and again. It doesn't mean that he's going to be violent with guns. There's a lot of gun owners in the country.

Q I -- sorry, we just -- I need -- so two things: Mr. Ginexi, I have to remind you that you're under oath, number one.

A Yes.

Q And then number two, I just need clear answers on the record.

Because about one minute ago I asked you: Have you ever heard Mr. McKenzie talk about guns? And you said, No.

But then I just asked you one minute later, "What makes you believe that Mr. McKenzie likes guns," and you said, "Because he would talk about them every now and again."

A Oh, I thought you were asking me did I hear him referencing guns, like, towards people.

No. He -- he's -- he's talked about -- referenced firearms and stuff like that, but not, like, you know, recently.

He said he had a gun when he was younger and stuff. You know, he said he had a street sweeper or something like that. You know, I -- I

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Q Has Mr. McKenzie ever talked to you about somebody being shot?

A No. No. Not that I've seen -- not that I've heard.

Q Do you know whether he's talked to other employees about guns?

A I don't. No, I don't know.

Q Okay.

MR. RAKOWER: Let's go to paragraph 12.

BY MR. RAKOWER:

Q Okay. Paragraph 12, in the second sentence, says, "Among the artworks that McKenzie has forged recently are hundreds of silkscreens of Four Seasons of Hope, as well as two HOPE sculptures that are in the process of being created."

Do you see that?

A Uh-huh.

Q Okay. Have you seen silkscreens of Four Seasons of Hope being created this year?

A No. Well, he has created -- I have printed the winter and the spring versions of the four seasons recently.

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don't even know what it is. But he referenced that he had firearms in the past.

Do I know that he has guns now? I -- I don't -- I don't want to know if people have guns, especially the ones I work for.

Q Sure. And -- and I'm not asking you whether you know this for certain.

I'm just asking: Do you believe a street sweeper is a -- is a type of machine gun?

A I -- that would be my guess -- I didn't think it was a broom, you know. So I'm gathering it's some kind of violent gun, you know.

Q To the best of your understanding, a street sweeper is some -- some form of automatic gun?

A It's -- it's a gun, yeah, and I would assume it's an automatic gun, yes.

Q Okay. And Mr. McKenzie has told you that he, at one point in time, owned a street sweeper?

A He said he had one or seen one or -- I don't remember the context of the story. But I don't know if he said he owned one or he's seen one or -- but he -- he referenced it so.

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The HOPE sculptures, I don't know.

Q So you printed the winter and spring versions of Four Seasons of Hope recently. Was that this year?

A Yes.

Q Approximately how many artworks?

A I -- I do not recall exactly. Twenty or 30 maybe, not even.

Q It was -- it was over ten; correct?

A It was over ten, yes.

Q Was it -- was Mr. Indiana's seal or signature applied to those artworks?

A Yes.

Q Okay. Was it a seal?

A It was a seal, yeah.

Q And the seal, was it applied by a stencil?

A Yes.

Q Okay. And that stencil was applied by Ms. Vessecchia?

A Yes.

Q She did so at Mr. McKenzie's direction?

A Yes.

Q That stencil bared a year on it?

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A I believe they all do, so yes, it would.

Q And that year was not 2021; right?

A I do not recall what year it was.

Again, I didn't stamp them, so I don't -- I don't know. But it wasn't 2021 probably, no.

Q And it wasn't 2020; right?

A No.

Q It wasn't 2019; right?

A Well, if I knew the date I would tell you the date.

Q Sure. But -- but to your knowledge, the -- the -- the date on it was not a date -- was not a year after Mr. Indiana died; right?

A Not that I recall and not that I would guess.

Q That wasn't the -- the -- the practice, right, to do so?

A What wasn't the practice?

Q To stamp an artwork with a year after Mr. Indiana died?

A Well, we talked about it earlier, and how Mike said that he was finishing the contracts previous so that the -- you had to stamp them what that contract or when that project was started or

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MR. RAKOWER: We can put this document aside.

Bridget, I think I -- I may be done. I just want to go over my notes. It might be a good time to take a break.

I don't know if you're going to have questions.

MS. ZERNER: I have a couple. So I think that would be a good too if we want to just take the 20 minutes to one -- to -- until one o'clock.

MR. RAKOWER: Yeah.

MS. ZERNER: Because I'll take the time to prepare myself as well so we don't need another break.

MR. RAKOWER: Excellent. Let's -- let's do until -- let's take a break until 1 p.m.

MS. ZERNER: Okay.

THE VIDEOGRAPHER: Off the record, 12:38 p.m.

(Whereupon, there was a recess taken from 12:38 p.m. to 1:02 p.m.)

THE VIDEOGRAPHER: Back on the

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the contract was done or whatever, you know, so --

Q Were all the Four Seasons of Hope silkscreens stamped with the same year?

A I do not know. Mike's the one that tells you what to stamp them and all that stuff. So he would have advised Annette what to do, just like he did for me in the past.

Q And I think you said you don't know anything about the HOPE sculptures.

Are you aware of two HOPE sculptures being created this year?

A No. No.

Q Have you seen --

A Again -- What?

Q No. Go ahead. Finish your sentence.

A No, again, I don't -- I -- I never communicated with the foundries or anything like that so I don't know what he's doing with that or if he's even doing it.

Q Have you seen any other Indiana artworks being created this year?

A No. Just the silkscreens that I'm doing.

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record, 1:02 p.m.

MR. RAKOWER: Great.

BY MR. RAKOWER:

Q Mr. Ginexi, I just have a few -- few more questions I want to ask you.

I want to go back to our discussion about the -- the transportation of artworks from Mr. McKenzie's property to the storage facility in Middletown; okay?

A Yes.

Q And we discussed that, you know, you were present for a few trips that occurred in July of this year; right?

A Yes.

Q Okay. And I just want to go over -- and we did this exercise with regard to artworks that -- that you saw Mr. Indiana sign or that you brought for -- to Mr. Indiana for signing.

I just want to go over your recollection of which artworks were present -- or which artworks were transported from the property -- Mr. McKenzie's property to the storage facility in Middletown; okay?

A (The witness nods head.)

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Q Okay. So did you see any HOPE artworks transported from Mr. McKenzie's property to the storage facility in Middletown?

A Yes.

Q Did you see any LOVE artworks?

A LOVE? Possibly. I'm trying to remember -- I'm just trying to remember if his portfolios from '96 were transported.

Q Do you --

A I -- I -- I believe they may have been, yes.

Q Okay. You believe there may have been, and you can't rule out the possibility that they -- that they were; right?

A Yeah. I'm not a hundred percent sure of which artworks in general were moved, because there was just so much stuff moved. I don't -- I don't remember which ones exactly, but I believe they may have been moved.

Q Okay. What about Dylan artworks?

A Them too, yeah.

Q You believe they may have been moved?

A I mean, I believe they may have, yeah.

Q Okay. What about --

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A The -- sorry, go ahead.

Q Go ahead, no, I'm sorry.

A No, sorry. Go ahead.

Q What about EAT?

A Potential, yes.

Q What about ART, A-R-T?

A Potentially, yes.

Q What about TIKVA?

A I don't know honestly.

Q What about --

A I don't -- I don't know.

Q What about AHAVA?

A I don't think so. Maybe. I don't know.

Q What about Alphabet?

A I believe there were some Alphabet pieces in there, yes.

Q Okay.

MR. RAKOWER: That's all the questions I have. Thank you for your time, Mr. Ginexi.

THE WITNESS: No problem. Thank you.

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CROSS-EXAMINATION

BY MS. ZERNER:

Q Okay. Mr. Ginexi, I just want to follow up on some things you were asked about earlier today.

A Okay.

Q So just going back to earlier today when you were asked about the documents you were requested to look for in the subpoena, there was one that asked about documents concerning the concealment of Indiana artworks.

Have you ever seen or had possession of any documents about concealing or hiding Robert Indiana document -- Robert Indiana artwork?

A No. No.

Q And have -- as to transferring artwork, transferring the ownership of artwork with -- related to Indiana artwork, have you seen or possessed any documents related to ownership transfer?

A No.

Q All right. And as part of the questioning, you were asked about documents related to the signature or emblem or stencil of

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Robert Indiana and I believe you said that Oz Gonzalez tried to get McKenzie to use the Ghostwriter on unsigned pieces of artwork; is that correct?

A Yes.

Q Do you recall -- did that happen just one time or more than once?

A On multiple occasions Oz asked or tried to suggest to Michael McKenzie or suggested to Michael McKenzie that he produce LOVE pieces and sign other artworks with the Ghostwriter.

Q And did McKenzie ever agree to do that?

A No.

Q Have you ever communicated with anyone that you understood to be from Morgan Art Foundation related to Indiana artworks?

A No.

Q Have you ever communicated with anyone from the Salama-Caro family to your knowledge?

A No.

Q Have you ever had direct communications with the Artist Rights Society?

A No.

Q Have you ever been involved with



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activities of American Image Art that were specifically focused on copyrights or trademarks or things like -- related to that?

A No.

Q And you said you were mainly the master printer; right?

A Yeah. I just manufactured silkscreens in Michael McKenzie's facility.

Q All right. Now, you were talking about earlier in answer to some questions that, I believe, you said that Mr. McKenzie was upset about the Morgan parties coming to Katonah again and that he complained that he didn't have all the information from Morgan and felt he was being invaded.

Do you recall saying something like that?

A Yes.

Q So when -- did you ever hear him -- Mr. McKenzie, complain to you that he thought Morgan hasn't disclosed all the information or documents that it should disclose in this litigation?

A Michael has complained to me about

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Q And did you hear any of those complaints prior to the lawsuit starting in 2018?

A Yes.

Q And what were the complaints that -- what complaints did you hear about prior -- just sorry, to be clear -- I'm talking about prior to the litigation starting, what complaints did you hear about related to Indiana and Morgan?

A That they didn't -- weren't paying the artist.

Q So did you ever consider the use of a stencil at American Image Art at any time to be a forgery?

A No.

Q And prior to leaving American Image Art, did Oz Gonzalez ever express concern to you that you were making forgeries of Robert Indiana artwork?

A No. And in fact, he advised us -- or tried to advise us to manufacture even more art. He wanted us to produce LOVE. On multiple occasions he suggested to produce LOVE.

Q And as part of that -- so did Gonzalez ever express any concern about the use of the

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Morgan not providing him all the information they were -- he requested or that they were supposed to or something of that nature.

Q And did he -- was he complaining at the time that -- when he was talking about that Morgan was able to come back to the Katonah property -- property for an inspection again?

A Yes. He was complaining about that.

Q Now, in advance of that court-ordered inspection in August, did Mike say he was taking the artwork to Middletown in order to avoid any of the parties involved in litigation from seeing any of the artwork again?

A No.

Q And at any time did you ever hear any -- any complaints -- excuse me.

Did you ever hear anything about Indiana, Robert Indiana complaining about Morgan?

A Just what Michael was saying. I had never heard anything.

Q You didn't -- you didn't hear anything directly from Indiana but you heard it from McKenzie?

A Yes. McKenzie complained about it.

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stencil that we have been talking about prior to him leaving American Image Art?

A No. His -- all his concerns in the allegations are after he had left.

Q And when you were -- you were asked about Mr. McKenzie ever talking about guns or gun violence. During any of these discussions have -- were you ever in fear of Michael McKenzie?

A No.

Q Were you ever in fear for others from Michael McKenzie?

A No.

Q Did Oz Gonzalez ever express to you that he was in fear of Michael McKenzie?

A No. Oz Gonzalez used to brag about the UFC fights and how he had a history of violence in his past. And he -- he wanted to come across like a street tough guy. So --

Q Okay.

A His fear, I -- I don't believe he has fear.

Q Did you ever try to hide or delete documents to keep other parties in these lawsuits from seeing them?

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A No.

Q And when I say "these lawsuits," I think you understand but I'm referring to, you know, lawsuits with Morgan and the estate related to Robert Indiana artwork; okay?

A Yeah.

No, I'm not hiding anything.

Q And did Mike ever tell you to hide or delete any documents?

A No.

Q Did you ever try to hide any Indiana artwork from other parties in the litigation?

A No.

Q Did Mike ever tell you to do that?

A No.

Q Did Michael McKenzie ever bully you to print artwork that you did not want to do?

A No.

Q Did he ever threaten you?

A No.

Q Now, let me see.

Do -- I'm going to pull up on the screen, I believe, one of the videos that you -- you produced in response to the subpoena. I

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record?

MS. ZERNER: That would be great. I think it might -- may be necessary. Thank you.

THE VIDEOGRAPHER: Off the record at 1:15 p.m.

(Whereupon, there was a recess taken from 1:15 p.m. to 1:19 p.m.)

THE VIDEOGRAPHER: On the record 1:19 p.m.

MS. ZERNER: Okay. So I think we have this fixed -- or I thought I did and as I start the video.

So I'm going to hit -- I put up -- I'm putting up on the screen what we can mark as the next exhibit, one of the videos you produced in response to the subpoena, Mr. Ginexi.

And this is the one that has a number on it of -- I's marked with MAH00170; okay?

THE WITNESS: Okay.

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don't --

MS. ZERNER: If you have access, Ryan, I'll pull it up on the screen but I'm going to open up the video that was marked MAH00170.

MR. RAKOWER: Okay. Is this within the scope of my questioning?

MS. ZERNER: This is a deposition. This is discovery. I'm not limited to the scope of your questioning.

All right. I'm just trying to share -- I haven't had to share a video before. If you hold on one moment. Is there -- it's not coming up.

Let me just -- if -- I apologize for the delay. I'm just going to close some things that were open to make sure there's no confusion on the screen.

All right. If I could ask for assistance from our tech team about sharing a video on Zoom.

Is there --

THE VIDEOGRAPHER: Do you want to go off -- do you want to go off the

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(Whereupon, Exhibit No. 10, Videotape Bates Stamped MAH00170, was marked for identification.)

COURT REPORTER: This will be 10.

MS. ZERNER: Let me share it again.

All right.

BY MS. ZERNER:

Q Mr. Ginexi, do you recognize this video?

A I just see your files. I don't see the actual video.

Q Okay. Thank you. I was afraid of that because the way we fixed it last time when we paused to check on -- do our test, it was not going back to where I was. Let me try this again. Sorry for the delay.

Of course it worked when we were testing it off the record and now that we are back on the record when I go to do it the same way, it's not coming up?

THE VIDEOGRAPHER: Do you want to go back off for a minute?

MS. ZERNER: If we can pause for me to not take more of your time on the record. Thank you.

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1 TIMOTHY GINEXI  
 2 THE VIDEOGRAPHER: Off the record  
 3 1:22.  
 4 (Whereupon, there was a recess  
 5 taken from 1:22 p.m. to 1:22 p.m.)  
 6 THE VIDEOGRAPHER: On the record  
 7 1:22 p.m.  
 8 BY MS. ZERNER:  
 9 Q All right. Mr. Ginexi, we are going to  
 10 try again.  
 11 So can you see now a shared screen?  
 12 Do you see a video?  
 13 A I do.  
 14 Q All right. I'm going to start playing  
 15 it a little bit again and then ask you some  
 16 questions; okay?  
 17 A Okay.  
 18 Q And again, this is the video that was  
 19 produced marked MAH00170 and it's an M4 -- MP4  
 20 file okay.  
 21 (Whereupon, the video was started.)  
 22 SPEAKER: Hi. I'm Tim nice to meet  
 23 you.  
 24 SPEAKER: You remember --  
 25 SPEAKER: Hi, Jimmy.

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1 TIMOTHY GINEXI  
 2 way?  
 3 A No.  
 4 Q And do you know who is taking the video?  
 5 A Claire Rodriguez.  
 6 Q Do you know what camera she was using?  
 7 A My video camera.  
 8 Q All right. And after the video is taken  
 9 that day with your camera, did you then save the  
 10 video files to your personal computer?  
 11 A I did.  
 12 I --  
 13 Q Does Mr. McKenzie have --  
 14 A When we came back from Maine, I imported  
 15 them all into Mike's computer and then we -- I  
 16 imported -- I eventually imported them, backed up  
 17 the camera, on my home computer, yes.  
 18 Q Okay. And the ones that you recently  
 19 produced, they were from your personal computer?  
 20 A Yes.  
 21 Q Now, if I -- again, I'm going to play a  
 22 little more of the video.  
 23 A Okay.  
 24 (Whereupon, the video was started.)  
 25 SPEAKER: Oh, you are that lady?

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1 TIMOTHY GINEXI  
 2 SPEAKER: Hi, Bob.  
 3 SPEAKER: How you doing?  
 4 SPEAKER: Hello.  
 5 SPEAKER: Good to see you.  
 6 SPEAKER: Good to see you.  
 7 SPEAKER: Well, you've been --  
 8 you've been doing me great favors the  
 9 last few years saving me your  
 10 half-and-half containers for my --  
 11 (Whereupon, the video was stopped.)  
 12 BY MS. ZERNER:  
 13 Q Okay. Mr. Ginexi, do you recognize the  
 14 place in this video?  
 15 A That is Michael McKenzie's space in  
 16 Vinalhaven, Maine.  
 17 Q Okay. Was it a studio in Vinalhaven?  
 18 A It was a studio attached to a house that  
 19 he had on the island.  
 20 Q Okay. And this video and -- and the  
 21 other ones you produced have a date stamp of  
 22 April 1, 2015.  
 23 Does that sound right to you?  
 24 A Yes.  
 25 Q Did you manipulate these files in any

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1 TIMOTHY GINEXI  
 2 SPEAKER: I'm that lady.  
 3 SPEAKER: Uh-huh. Maybe you are  
 4 friends with Valerie?  
 5 SPEAKER: I am. Very grateful.  
 6 It's good to see you.  
 7 (Whereupon, the video was stopped.)  
 8 BY MS. ZERNER:  
 9 Q Mr. Ginexi, do you -- the video is  
 10 showing some artwork on the table that has various  
 11 images on it.  
 12 Do you recognize -- recognize this piece  
 13 of art?  
 14 A That is the retrospective piece that  
 15 Michael made or Indiana was producing or somebody.  
 16 It was prior to me being employed there but it was  
 17 in the studio to be signed just like when he used  
 18 to leave work up there, that piece was one of the  
 19 ones that was up there prior to me getting up  
 20 there.  
 21 Q Okay. So this is an Indiana piece  
 22 produced by American Image Art?  
 23 A Yes. That is correct.  
 24 Q And it -- and the retrospective is a  
 25 piece that has -- is it accurate to say this is

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1 TIMOTHY GINEXI  
 2 one piece of artwork that has various Indiana  
 3 artworks combined in one?  
 4 A Yes, that's what it is.  
 5 Q Do you -- do you recognize back here in  
 6 the back an image of LOVE?  
 7 A The upper -- I guess my right-hand  
 8 corner would be the LOVE, yeah.  
 9 Q And coming forward, do you -- in that  
 10 same row, do you recognize what the next piece is  
 11 that --  
 12 A That's a section of American Dream, I  
 13 believe.  
 14 Q Okay. And then moving up, the next one  
 15 is --  
 16 A EAT, ART --  
 17 Q And then --  
 18 Okay. And then in the next row, way at  
 19 the back under LOVE, do you know what that piece  
 20 is?  
 21 A That is HE.  
 22 Q And then the next one, do you recognize  
 23 that?  
 24 A I believe that was the Shout for Peace.  
 25 Q Okay. And the next one?

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1 TIMOTHY GINEXI  
 2 SPEAKER: I am. I am.  
 3 SPEAKER: Do you have a market for  
 4 that?  
 5 SPEAKER: I do. Yup. I sell it at  
 6 the farmers' market and I have a number  
 7 of --  
 8 (Whereupon, the video was stopped.)  
 9 BY MS. ZERNER:  
 10 Q Can you just tell me, do you know who  
 11 the woman is that's speaking?  
 12 A I don't remember her name but she's --  
 13 the gentleman in the background with the long hair  
 14 Chris Clark, that's his wife.  
 15 Q Okay. And who is Chris Clark?  
 16 A He was -- he is a etcher and silkscreen  
 17 printer that lived on the island. And Mike was  
 18 employing him in Vinalhaven to produce Robert  
 19 Indiana works for Bob.  
 20 Q Thank you. I'm going to now play some  
 21 more of the video.  
 22 (Whereupon, the video was started.)  
 23 SPEAKER: Retail stores that buy it  
 24 from me and sell it on the mainland.  
 25 (Whereupon, the video was stopped.)

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1 TIMOTHY GINEXI  
 2 A USA FUN.  
 3 Q And then the next one in that row?  
 4 A SHE.  
 5 Q And then going back down, all the way to  
 6 the back, the -- the third row at the back there,  
 7 is that HOPE?  
 8 A HOPE.  
 9 Q And then the next one coming forward?  
 10 A Alphabet.  
 11 Q And then the next one?  
 12 A BODY.  
 13 Q Yes.  
 14 A And then SOUL.  
 15 Q Okay. Thank you.  
 16 And did you have an understanding that  
 17 Mr. -- Mr. Indiana approved of the retrospective  
 18 piece?  
 19 A He signed them.  
 20 Q Okay. And that indicated to you that he  
 21 approved it?  
 22 A Yes.  
 23 Q All right. Thank you.  
 24 I'm going to play a little bit more.  
 25 (Whereupon, the video was started.)

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1 TIMOTHY GINEXI  
 2 BY MS. ZERNER:  
 3 Q Di you -- is that you walking by?  
 4 A Yes.  
 5 Q Did you recognize that piece? Did you  
 6 catch it?  
 7 A I believe it's HOPE VINALHAVEN or HOPE  
 8 YALE or HOPE FOR PEACE, one of those.  
 9 Q Okay. And --  
 10 A I didn't see it. It went by so quick.  
 11 I was trying to figure out -- I'm trying to  
 12 remember which one we printed in front of him.  
 13 Q Okay. And the -- the three pieces that  
 14 you just mentioned, did you understand that  
 15 Indiana approved of each of those?  
 16 A He signed them.  
 17 Q Yeah.  
 18 (Whereupon, the video was started.)  
 19 SPEAKER: Yeah. I sell it online  
 20 so it's great. Yeah. Yeah.  
 21 SPEAKER: Yeah. Yup.  
 22 SPEAKER: That's just the --  
 23 (Whereupon, the video was stopped.)  
 24 BY MS. ZERNER:  
 25 Q And do you recognize the other gentle-

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1 TIMOTHY GINEXI  
2 -- well, the gentleman right in front of us in the  
3 buffalo plaid, that's Mr. McKenzie?  
4 A Yes. The lumberjack is Mr. McKenzie.  
5 Q Okay. And back there, the other  
6 gentleman, is that Jamie Thomas?  
7 A The gentleman carrying the pillow is  
8 Jamie Thomas.  
9 Q Okay.  
10 (Whereupon, the video was started.)  
11 SPEAKER: It feels fine. I had it  
12 so long --  
13 SPEAKER: Yeah.  
14 SPEAKER: That --  
15 (Whereupon, the video was stopped.)  
16 A That pillow is for Robert Indiana.  
17 BY MS. ZERNER:  
18 Q You said the pillow was for Mr. Indiana?  
19 A Yeah.  
20 Q Okay. They were trying --  
21 A So he was -- so he was comfy.  
22 Q Okay.  
23 (Whereupon, the video was started.)  
24 SPEAKER: Try a couple things here.  
25 SPEAKER: Yeah.

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1 TIMOTHY GINEXI  
2 want to do it, he wasn't doing it, you know?  
3 Q Okay. So did you ever hear him reject  
4 any of the pieces of artwork that American Image  
5 had brought to him?  
6 A No. No. But Mike told me on certain  
7 occasions that it -- he -- he was going up  
8 ambitious that he would get Indiana's approval on  
9 something and -- and then, you know, he didn't get  
10 it.  
11 Q And when Mr. Indiana did not approve of  
12 a proposal by Mike, did Mike make it anyway?  
13 A No. No.  
14 Q So he complied with Mr. Indiana's  
15 instructions, to your observation?  
16 A Yes.  
17 Q Did you ever hear Indiana refuse to sign  
18 a piece because he thought he hadn't authorized  
19 it?  
20 A No.  
21 Q At any point did you see Mr. Indiana get  
22 upset or complain about the use of his seal on any  
23 of the pieces?  
24 A No.  
25 Q Okay.

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1 TIMOTHY GINEXI  
2 SPEAKER: This one first. This  
3 is -- real quickly, the Yale. This is  
4 what --  
5 (Whereupon, the video was stopped.)  
6 BY MS. ZERNER:  
7 Q Now, Mr. McKenzie is standing at a table  
8 with -- there seems to be prints on that table.  
9 And if you see behind him there's boxes there. Do  
10 you see that?  
11 A I see some -- it looks like artwork on  
12 the table.  
13 Q Okay. Do you know -- do you recall if  
14 that was artwork you all had brought up for  
15 Mr. Indiana?  
16 A Yeah. We -- we brought up a bunch of  
17 stuff for him to okay and sign and --  
18 Q And during this -- this time when you --  
19 when you did that, when you brought the various  
20 artworks to Mr. Indiana, at any point did you see  
21 Mr. Indiana get upset with Michael McKenzie?  
22 A No.  
23 Q Did any --  
24 A Indiana -- Indiana seemed like a pretty  
25 straight -- straightforward guy. If he didn't

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1 TIMOTHY GINEXI  
2 (Whereupon, the video was started.)  
3 SPEAKER: It looks like, you  
4 know --  
5 SPEAKER: Oh, the YALE. I have  
6 about 50 of these.  
7 (Whereupon, the video was stopped.)  
8 BY MS. ZERNER:  
9 Q Is that the -- now, Mr. McKenzie is  
10 holding up a piece in front of Mr. Indiana that  
11 says "HOPE YALE."  
12 A Yes.  
13 Q That's -- you had mentioned HOPE YALE  
14 earlier; right? Is that the piece?  
15 A That is the piece, yes.  
16 (Whereupon, the video was started.)  
17 MR. McKENZIE: I think Yale is  
18 going to like it.  
19 MR. INDIANA: Is that blue and  
20 green?  
21 MR. McKENZIE: What's that?  
22 MR. INDIANA: Is that blue and  
23 green?  
24 MR. McKENZIE: No. It's a light  
25 blue and a dark blue. Those are the



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1 TIMOTHY GINEXI  
 2 Yale colors.  
 3 MR. INDIANA: I didn't know that.  
 4 MR. McKENZIE: Yeah. That's their  
 5 thing, the Yale -- the Yale --  
 6 (Whereupon, the video was stopped.)  
 7 BY MS. ZERNER:  
 8 Q Okay. And this video -- we are not  
 9 going to sit and watch this whole video, it's kind  
 10 of long, but I wanted to move ahead here.  
 11 (Whereupon, the video was started.)  
 12 MR. INDIANA: Can you push me up  
 13 here?  
 14 SPEAKER: Yeah. If you are going  
 15 to be signing, I think you are going to  
 16 have to sit on this.  
 17 MR. INDIANA: Yeah. I am going to  
 18 have to, yeah.  
 19 SPEAKER: That's it. Does this not  
 20 go up anymore? Did it break?  
 21 I think we tried to put it up high  
 22 but I don't know.  
 23 SPEAKER: We might have to put a  
 24 pillow but I don't know.  
 25 MR. McKENZIE: Are you telling me

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1 TIMOTHY GINEXI  
 2 up to Bob. You know, he seemed to have a history  
 3 prior to me and, you know, that Indiana and him  
 4 knew each other from back in the day.  
 5 And -- and Mike -- Mike worked with a  
 6 lot of artists so he had a -- a -- a genuine  
 7 history in the art world prior to me even working  
 8 with -- with him and American Image.  
 9 Q So then you never saw Mr. McKenzie  
 10 bullying or threatening Mr. Indiana?  
 11 A No, I did not.  
 12 Q Did you ever have the impression when  
 13 you were with Mr. Indiana that Mr. Indiana was  
 14 scared of Mike?  
 15 A No.  
 16 Q And what were your observations about  
 17 the interaction between Jamie Thomas and  
 18 Mr. Indiana?  
 19 A From what I've always witnessed, when I  
 20 saw Jamie and when I saw Jamie around Indiana, was  
 21 that he had Indiana's best interests in mind. And  
 22 he was there caretaking for him and, you know,  
 23 he -- he -- like in the video, he just ran off to  
 24 go get him another pillow to sit on.  
 25 So he was, you know, always had Bob's

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1 TIMOTHY GINEXI  
 2 these Chinese are not making good  
 3 products?  
 4 SPEAKER: Let me get a  
 5 pillow-pillow.  
 6 This one is not quite --  
 7 SPEAKER: Too big?  
 8 SPEAKER: It's a little too long.  
 9 Too big.  
 10 (Whereupon, the video was stopped.)  
 11 BY MS. ZERNER:  
 12 Q Now, you see, this is what you were  
 13 talking about, they were trying to make  
 14 Mr. Indiana comfortable in his chair with the  
 15 cushion?  
 16 A Yeah. I always -- whenever I was around  
 17 Indiana there, Mike was always trying to cater to  
 18 him in some way, shape or --  
 19 "You want coffee, Bob?" "You want  
 20 anything?" "You hungry?" "You tired?"  
 21 So that was just my witness of what --  
 22 Q Any other observations about how Michael  
 23 McKenzie treated Mr. Indiana?  
 24 A He -- you know, he acted very respectful  
 25 to him and he always -- he kind of, like, looked

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1 TIMOTHY GINEXI  
 2 interests in mind, from what I viewed.  
 3 (Whereupon, the video was started.)  
 4 MR. McKENZIE: Right up here, I  
 5 believe, on this level there's a couple  
 6 of -- what-do-you-call-it's -- pillows?  
 7 Oh, wait a minute, what about this?  
 8 SPEAKER: Well, we'll try this. If  
 9 that doesn't work, we'll try other  
 10 variations.  
 11 MR. McKENZIE: Yeah, that's good.  
 12 Yeah, this -- I forgot about this thing.  
 13 Just the seat from the --  
 14 SPEAKER: Right. That might be  
 15 better.  
 16 MR. INDIANA: Let me see.  
 17 SPEAKER: How is that?  
 18 MR. INDIANA: That will be okay.  
 19 SPEAKER: Don't sit back unless you  
 20 tell me.  
 21 MR. McKENZIE: Yeah. Give us a  
 22 heads up you are sitting back.  
 23 SPEAKER: No broken hips.  
 24 MR. McKENZIE: Yeah.  
 25 MR. INDIANA: So what happened to

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TIMOTHY GINEXI

DIE, Michael?

MR. McKENZIE: We didn't put it in. That wasn't one of the ones that we put in.

MR. INDIANA: I wonder why.

MR. McKENZIE: You know what, Jade Jagger girl thinks that EAT and DIE is going to be the most popular piece of jewelry she's going to sell.

MR. INDIANA: Well, I have doubts about that.

MR. McKENZIE: Me too.

SPEAKER: I looked that up. I actually liked that. I was surprised. I actually like that jewelry.

MR. McKENZIE: She's very good. (Whereupon, the video was stopped.)

BY MS. ZERNER:

Q Just moving ahead to get to when Mr. Indiana sits down.

(Whereupon, the video was started.)

SPEAKER: Following the footsteps of --

SPEAKER: I was surprised.

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TIMOTHY GINEXI

COURT REPORTER: I marked that video with the numbers you gave me as Number 10.

MS. ZERNER: All right. Mr. Ginexi, I don't have any further questions. Thank you. Mr. Rakower might have some follow up.

MR. RAKOWER: I have no further questions. Thank you for your time.

THE WITNESS: Thank you.

MS. ZERNER: All right. You are free to go.

Thank you, Tim.

THE WITNESS: Thank you.

THE VIDEOGRAPHER: Off the record 1:39 p.m.

(Thereupon, the deposition was concluded at 1:40 p.m.)

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TIMOTHY GINEXI

SPEAKER: Put together --

SPEAKER: She --

MR. INDIANA: Oops.

SPEAKER: No, the last time I heard from him was probably --

MR. INDIANA: Oh.

SPEAKER: There was also a beep that came from somewhere.

SPEAKER: A beep?

SPEAKER: Yeah. But it was --

(Whereupon, the video was stopped.)

BY MS. ZERNER:

Q I think I'm going to move this along. We can get out of this video.

Now, you produced several videos of that same visit; correct?

A Yes.

Q And did you manipulate any of the videos in any way?

A No.

Q All right. I think I'm about finished. If you give me one moment.

MS. ZERNER: And I'm sorry, what was the next exhibit number?

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# CERTIFICATE

I, Clifford Edwards, Certified Shorthand Reporter, do hereby certify that prior to the commencement of the examination, the witness was duly remotely sworn to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony, that said deposition was taken by me stenographically at the time and date hereinbefore set forth, and the foregoing is a true and accurate transcript of the testimony.

I FURTHER CERTIFY that I am neither of counsel nor attorney to any of the parties to said suit, nor am I an employee of any party to said suit, nor of any counsel in said suit, nor am I interested in the outcome of said cause.

Witness my hand and seal as Notary Public this 9th day of November, 2021.

Clifford Edwards

Notary Public

My commission expires: 9/30/2026

## J U R A T

I have read the foregoing 177 pages  
and hereby acknowledge the same to be a  
true and correct record of the testimony.

\_\_\_\_\_  
TIMOTHY GINEXI

Subscribed and sworn to

\_\_\_\_\_.  
Before me this \_\_\_\_ day of \_\_\_\_\_,  
2021.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

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